

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and
wastewater rates in Orange County by Pluris
Wedgfield, LLC.

DOCKET NO. 20230083-WS
ORDER NO. PSC-2024-0077-FOF-WS
ISSUED: March 22, 2024

The following Commissioners participated in the disposition of this matter:

MIKE LA ROSA, Chairman
ART GRAHAM
GARY F. CLARK
ANDREW GILES FAY
GABRIELLA PASSIDOMO

ORDER GRANTING IN PART AND DENYING IN PART
THE OFFICE OF PUBLIC COUNSEL'S
MOTION FOR RECONSIDERATION

BY THE COMMISSION:

Background

On September 22, 2023, Pluris Wedgfield, LLC (Pluris or Utility) filed its application for approval of interim and final water and wastewater rate increases. Pluris is a Class A utility providing water and wastewater service to approximately 1,743 water customers and 1,711 wastewater customers in Orange County. The Office of Public Counsel (OPC) intervened and is the only other party to this docket. Rates were last established for this Utility in its 2017 limited proceeding.¹ The Utility's last comprehensive base rate proceeding was in 2012.²

The Utility's application for increased interim and final water and wastewater rates was based on the historical 13-month average period ended December 31, 2022. Pluris requested an increase to recover all expenses it will incur in order to generate a fair rate of return on its investment and pro forma plant additions.

The Utility requested interim rates designed to generate revenues of \$2,370,815 for water and \$1,608,064 for wastewater, which would result in a revenue increase of \$743,196, or 45.66 percent, for water and \$541,637, or 51.49 percent, for wastewater. Commission staff recommended interim rates designed to generate revenues of \$2,040,748 for water and

¹Order No. PSC-2018-0311-PAA-WS, issued June 13, 2018, in Docket No. 20170166-WS, *In re: Application for limited proceeding rate increase in Orange County by Pluris Wedgfield, Inc.*

²Order No. PSC-13-0187-PAA-WS, issued May 2, 2013, in Docket No. 20120152-WS, *In re: Application for increase in water and wastewater rates in Orange County by Pluris Wedgfield, Inc.*

\$1,301,113 for wastewater, which would result in a revenue increase of \$410,299, or 25.61 percent, for water and \$244,186, or 23.10 percent, for wastewater. At the December 5, 2023 Commission Conference, OPC made oral argument for approximately 20 minutes and presented handouts to the Commission opposing Commission staff's recommended interim rates. In particular, OPC argued that Commission staff failed to follow the requirements of Section 367.082, Florida Statutes (F.S.), when calculating interim rates. We ultimately approved Commission staff's recommendation for interim rates. Order No. PSC-2023-0387-PCO-WS, approving the interim rates and suspending Pluris' requested final rates (Interim Order), was issued on December 27, 2023.

On January 8, 2024, OPC timely filed a Motion for Reconsideration (Motion) pursuant to Rule 25-22.0376, Florida Administrative Code (F.A.C.), and a Request for Oral Argument on its Motion for Reconsideration (Request) pursuant to Rule 25-22.0022 F.A.C. In its Motion, OPC argues that when setting interim rates for Pluris, we made adjustments inconsistent with Pluris' most recent individual rate proceeding and our own Rules and procedures. OPC further argues that we failed to make certain adjustments that were consistent with the statute governing interim rates.

On January 16, 2024, Pluris filed its Response to Office of Public Counsel's Motion for Reconsideration (Motion Response), and argued that OPC's arguments regurgitate those that were already presented to and considered by us at the December 5, 2023 Commission Conference. Pluris also filed its Response to Office of Public Counsel's Request for Oral Argument on its Motion for Reconsideration (Request Response) and argued that OPC was already given more time than it is now requesting to make the same arguments OPC made at the December 5, 2023 Commission Conference.

This order addresses OPC's Request for Oral Argument and Motion for Reconsideration, and Pluris' responses thereto. We have jurisdiction over this matter pursuant to Chapter 367, F.S., including Sections 367.081 and 367.082, F.S.

Decision

I. Request for Oral Argument

Law

Rule 25-22.0022(1), F.A.C., allows a party to request oral argument before us for any dispositive motion (such as motions for reconsideration) by filing a separate written pleading filed concurrently with the motion on which argument is requested, and stating with particularity why oral argument would aid us. Granting or denying oral argument is within our sole discretion under Rule 25-22.0022(3), F.A.C.

OPC's Position

OPC requests the opportunity to provide 10 minutes of oral argument on the Motion to further elaborate on its arguments and to aid us in understanding and evaluating the issues it raises as well as answer any questions.

Pluris' Position

In its Response, Pluris states that the issues raised in OPC's Motion were already extensively presented to us and that nothing would be gained from further oral argument. Pluris also notes that OPC is requesting only 10 minutes for oral argument on its Motion while simultaneously claiming that the 20 minutes given at the December 5, 2023 Commission Conference was an insufficient time to be heard on the same issues.

Conclusion

Granting or denying oral argument is within our sole discretion. We find that the pleadings are sufficient on their face for us to evaluate and decide OPC's Motion.

II. Motion for Reconsideration

Law

Reconsideration

The appropriate standard of review for reconsideration of a Commission order is whether the motion identifies a point of fact or law that we overlooked or failed to consider in rendering the order under review. *See Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So. 2d 315 (Fla. 1974); *Diamond Cab Co. v. King*, 146 So. 2d 889 (Fla. 1962); and *Pingree v. Quaintance*, 394 So. 2d 162 (Fla. 1st DCA 1981). It is not appropriate to reargue matters that have already been considered. *Sherwood v. State*, 111 So. 2d 96 (Fla. 3d DCA 1959) (citing *State ex. rel. Jaytex Realty Co. v. Green*, 105 So. 2d 817 (Fla. 1st DCA 1958)). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." *Stewart Bonded Warehouse, Inc.*, 294 So. 2d at 317.

Interim

The file and suspend law was designed to provide accelerated rate relief without sacrificing the protections inherent in the overall regulatory scheme. Interim rates, which are one aspect of this scheme, were designed "to make a utility whole during the pendency of the proceeding without the interjection of any opinion testimony." *Citizens v. Public Service Commission*, 435 So. 2d 784, 786 (Fla. 1983). Thus, the provision of interim rates is a "quick and dirty" means by which a utility can obtain immediate financial relief and address the regulatory lag which accompanies a full rate proceeding. Pursuant to Section 367.082(2), F.S.,

customers' interests are protected by requiring interim revenues be collected subject to refund with interest, should the rate increase ultimately approved by us be less than the authorized interim rates. According to Section 367.082(4), F.S., any refund should be calculated to reduce the rate of return of the Utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in the rate case test period that do not relate to the period that interim rates are in effect should be removed, such as rate case expense or any pro forma items. Thus, the process is not merely comparing the interim and final revenue requirements.

In order to establish a prima facie entitlement for interim relief, the utility must demonstrate that it is earning outside the range of reasonableness on its authorized rate of return. In setting interim rates, we must determine the revenue deficiency or excess by calculating the difference between the achieved rate of return of a utility and its authorized rate of return applied to an average investment rate base or an end-of-period investment rate base. Section 367.082(5)(a), F.S. For interim purposes, the "achieved rate of return" means the rate of return earned by the utility for the most recent 12-month period, calculated by applying appropriate adjustments consistent with those which were used in the most recent individual rate proceeding of the utility and annualizing any rate changes occurring during such period. Section 367.082(5)(b)1., F.S.

OPC's Motion

In its Motion, OPC states that "the Commission failed to make, or refrained from making, adjustments consistent with Pluris' most recent individual rate proceeding and the Commission's own promulgated rules and procedures." OPC claims the adjustments we failed to make, or refrained from making include: 1) a total specific equity adjustment of \$5,894,387 to reclassify \$3,848,517 recorded by the Utility in Accounts Payable-Associated Companies and \$3,049,849 recorded in Miscellaneous Current and Accrued Liabilities; 2) \$250,000 recorded in Advances from Associated Companies; 3) adjustments related to Contractual Services-Management Fees; and 4) the adjustment for used and useful. Additionally, OPC argues that reclassification of two recorded current and accrued liabilities as equity allows the Utility to recover judgment and legal fees associated with a lawsuit against the Utility and constitutes retroactive ratemaking. OPC urges us to reconsider the Interim Order and make adjustments consistent with OPC's motion. OPC's motion does not address the timing or process by which it believes such adjustments should be made. Finally, OPC reasserts its arguments from its letters dated November 30, 2023, and December 5, 2023, which were presented at the December 5, 2023 Commission Conference.³

Pluris' Response

In its Response, Pluris claims that we did not overlook OPC's arguments at the December 5, 2023 Commission Conference. Pluris claims that the adjustments that we made were consistent with the interim statute. The Utility also claims that none of its costs that it seeks to

³Document Nos. 06410-2023 and 06495-2023.

recover in rates are related to litigation or its settlement payment. Pluris also notes that OPC's recommended adjustment for used and useful would result in higher interim rates for customers, however Pluris does not contest this error. Pluris lastly argues that should mistakes be discovered when final rates are set, there is a mechanism in place for customers to receive a refund with interest if the final revenue requirement set by us is less than the interim revenue requirement.

Analysis

As detailed below, we disagree with three of the five adjustments OPC urges we reconsider, and find that reconsideration is not appropriate. While we agree that, with hindsight, two of the adjustments may be appropriate, both of those adjustments have the effect, if any, of raising the interim rate amount. As discussed below, we approve in part and deny in part OPC's Motion. However, for the reasons set forth below, we nevertheless shall leave interim rates unchanged.

1. Specific Equity Adjustment

Regarding the specific equity adjustment, Pluris' parent company contributed \$7.9 million of capital to Pluris so it could meet its financial obligations due to losses Pluris incurred in 2021 and 2022 due to a lawsuit. The contributed amount was originally booked on the balance sheet into Account No. 233, Accounts Payable-Associated Companies and Account No. 241, Miscellaneous Current and Accrued Liabilities. The approximately \$7.9 million was reclassified in December of 2022 into Equity Capital Account No. 212, Contributions from Parent. It is instructive to note that had Pluris requested a year-end interim test year, as is allowed by the interim statute, as opposed to a 13-month average interim test year, there would not be a dispute about the amount of the Utility's equity, as the amount Pluris' parent contributed is clearly booked as equity at year-end. Whether the amounts contributed by Pluris' parent were booked as equity or current liabilities is essentially irrelevant as it has been our long-standing policy to treat inter-company debt that is not being repaid, and does not carry an interest rate, as equity.⁴

The starting point for determining a Utility's capital structure is not Minimum Filing Requirements (MFR) Schedule D-1 nor MFR Schedule D-2 as argued by OPC in its Motion for Reconsideration and at the December 5, 2023 Commission Conference. The starting point is the Utility's balance sheet. A review of the Utility's balance sheet is necessary to determine whether the amounts entered onto MFR Schedules D-1 and D-2 are correct. Because a company's balance sheet must balance (assets equal liabilities and capital), so too a utility's rate base and capital structure must balance. All accounts on a utility's balance sheet correlate to either rate

⁴See Order Nos. PSC-00-1165PAA-WS, issued June 27, 2000, in Docket No. 990243-WS, *In re: application for limited proceeding increase and restructuring of water rates by Sun communities Finance Limited Partnership in Lake County, and overearnings investigation*; PSC-02-1449-PAA-WS, issued October 21, 2002, in Docket No. 011451-WS, *In re: Investigation of water and wastewater rates for possible overearnings by Plantation Bay Utility Co. in Volusia County*; PSC-2014-1095-PAA-WS, issued May 1, 2014, in Docket No. 20130211-WS, *In re: Application for staff-assisted rate case in Polk County by S.V. Utilities, Ltd.*; PSC-2013-0646-PAA-WU, issued December 5, 2013, in Docket No. 20130025-WU, *In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.*; PSC-2011-0366-PAA-WU, issued August 31, 2011, in Docket No. 20100126-WU, *In re: Application for increase in water rates in Marion County by C.F.A.T. H2O, Inc.*

base (assets) or capital structure (liabilities and capital). Working capital (rate base), using the balance sheet method, equals current assets minus current liabilities. When current assets and current liabilities are properly accounted for, the rate base and capital structure will balance.

Pluris, in its MFRs, properly reclassified Account Nos. 233 and 241 to equity. We verified this using Pluris' balance sheet and recognized that the parent company contributions booked into Account Nos. 233 and 241 met our criteria to be considered equity. We not only followed our long-standing practice in reaching this conclusion but, recognizing that the parent company's contributions were not booked into an equity account, also followed our Administrative Procedure Manual (APM) Section 13.12 Interpreting and Applying Interim Statutes, which states that "[a]djustments to correct errors in the interim test year data are appropriate."⁵ Furthermore, APM Section 13.12(D)(4) states:

Adjustments to reflect current practice should be made only if adjustments based on the same practice were made in the prior rate proceeding. The rationale for the adjustment is based on the action taken in the prior rate proceeding, but the amount of the adjustment is based on the amount included in the interim test year.

The policy being followed in the instant docket is consistent with Pluris' last rate case in that intercompany payables from associated companies with no interest payments are treated as common equity.⁶ In reaching its result, staff determined the per books amounts of the sources of capital that comprise the capital structure per Commission practice as should be done in all rate proceedings. Once the appropriate per books capital structure has been determined, ratemaking adjustments can be applied.

In its exhibit presented at the December 5, 2023 Commission Conference,⁷ OPC proposed to recognize Pluris' parent company's investment in Pluris as a current liability, not equity. Current liabilities are defined as debt or other obligations expected to come due within a year. Having Pluris' 2022 annual report on hand at the time of the interim filing, and said amounts having been reclassified as equity in December of 2022, these amounts are not debt or other obligations expected to come due within a year. Treating Pluris' investment as a current liability produced a negative working capital allowance of \$6,055,979 and forced OPC to impute to Pluris \$3,618,388 of debt that does not exist to get the capital structure to equal rate base and to calculate a weighted average cost of capital. Although OPC argues that Pluris' equity adjustments are improper because they were not made in the last rate case, OPC's solution to impute debt fails the same metric. Furthermore, OPC's recommended rate base was \$5,303,084. For a utility with a \$5.3 million rate base to have a negative \$6.1 million working capital allowance (which OPC zeroed out) is, to say the least, a red flag.

⁵Florida Public Service Commission Administrative Procedures Manual, Section 13.12(D)(1).

⁶Order No. PSC-13-0187-PAA-WS, issued May 2, 2013, in Docket No. 20120152, *In re: Application for an increase in water and wastewater rates in Orange County by Pluris Wedgefield, Inc.*

⁷Document No. 06495-2023. OPC specifically references and adopts these materials in its Motion for Reconsideration.

Because the arguments raised by OPC in its Motion on this issue are reargument of its position at the December 5, 2023 Commission Conference, and fail to identify a point of fact or law that we overlooked or failed to consider in rendering our decision, this portion of OPC's Motion for Reconsideration shall be denied.

2. Advances from Associated Companies

Pluris has Account No. 223 Advances from Associated Companies on its balance sheet with a balance of \$250,000. As pointed out by OPC, this account was treated as equity in Pluris' last rate case and should be recognized as equity for the interim revenue requirement. Commission staff did not recognize this amount as equity in its recommendation on the interim revenue requirement, and we agree this amount should be recognized as equity. However, the \$250,000 advance from Pluris' parent company increases the interim revenue requirement by \$8,439 and, consequently, would raise interim rates. While we agree that reconsideration is appropriate on this issue, we will not modify the Interim Order or add interim revenues to be assessed to customers. As stated by Pluris in its response, "[d]ue to the time constraints, the calculation of the interim revenue requirement is not always perfect. In a proposed agency action rate case, the interim rates are only in effect for a short period of time, so any error in the calculation will have nominal impact on the customers or Pluris." To avoid confusion and promote rate stability, we shall leave interim rates unchanged due to the short time period during which interim rates will be in effect before PAA rates are established.

3. Management Fees

In its Motion, OPC stated that we did not make adjustments to Contractual Services-Management Fees consistent with the Utility's last rate case. We were aware of OPC's suggested adjustments; however, we found that the proposed adjustments were not appropriate.

Section 367.082(5)(b), F.S., states that "the achieved rate of return shall be calculated by applying appropriate adjustments consistent with those which were used in the most recent individual rate proceeding of the utility or regulated company." Our decision to not grant OPC's adjustments was guided by our past decisions and how the interim statute was applied in making those interim adjustments, as well as the APM's guidance in determining how the statute is applied.

APM Section 13.12(D)(2) states that "[a]djustments made to be consistent with the last rate proceeding should be based on the methodology used in that case, but the amount of the adjustment should be based on the amounts reported in the interim test year." In application, we review the order from the last rate case for an established methodology that can be applied to the amounts reported in the current rate case.

For example, a common adjustment we have made is to calculate a multi-year average of an account to normalize a volatile expense that may vary widely from year to year.⁸ For interim purposes, we would apply the methodology of a three-year average to the most recent three years to determine what interim adjustment to recommend. Another common adjustment is to reduce certain expenses by the percentage of excessive unaccounted for water or inflow and infiltration established by us.⁹ For interim purposes, we would apply the methodology used in the previous case to calculate those percentages and apply them to the current interim balance of those same accounts. In reviewing the Order from Pluris' last rate case, we did not find a methodology established for management fees that could rationally be applied to the current rate case.

By letters dated November 13 and 15, 2023,¹⁰ OPC suggested management fees should be capped at 82.03% of the \$259,794 combined water and wastewater test year balance. This percentage was derived by dividing the amount of management fees approved in the 2012 rate case by the amount recorded in the MFR for that case. We do not find this adjustment is consistent with the methodology established in the last rate case that can be applied to the current case; rather, it is an arbitrary wholesale adjustment that does not take into consideration the individual adjustments made to management fees in the last rate case.

By letter dated November 30, 2023,¹¹ OPC mentioned in a footnote that we did not make adjustments to remove disallowed amounts that were removed in the Utility's price index applications in 2013 and 2015, but not in 2020. We reviewed the expense deduction work paper on page 18 of the November 30 letter, the Order from the last rate case, and each of the price index applications cited by OPC. The adjustments cited by OPC were made to specific cost categories allocated in the test year expense for management fees in the last rate case, such as the exclusion of the expense for a personal tax return, travel identified for potential acquisitions, and relocation costs. The amount of each adjustment was the exact amount identified in the last case, not based on current test year expenses. Further, none of the adjustments OPC listed were based on a methodology that could be brought forward and applied to amounts reported in the current docket.

The adjustments in the last rate case were made to pre-allocated costs charged to Pluris as a single fee for management services and recorded in an expense account for Contractual Services. The details of those pre-allocated costs are examined and audited in a rate case, but not listed in an annual report used to process price index applications. We accepted the adjustments in the two index applications immediately following the last rate case as self reported amounts matching the exclusions, not as mandatory adjustments pursuant to a defined methodology.

⁸See Order No. PSC-2013-0332-POC-WS, issued July 22, 2013, in Docket No. 20120209-WS, *In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida*; Order No. PSC-2012-0265-PCO-WS, issued May 30, 2012, in Docket No. 20120037-WS, *In re, Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke*.

⁹Order No. PSC-2023-0101-PAA-WS, issued February 28, 2023, in Docket No. 20220099-WS, *In re: Application for staff-assisted rate case in Highlands County by LP Waterworks, Inc.*; Order No. 2022-0432-PAA-WS, issued December 19, 2022, in Docket No. 20220032-WS, *In re: Application for staff-assisted rate case in Polk County by Anglers Cove West, Ltd.*

¹⁰Document Nos. 06049-2023 and 06080-2023.

¹¹Document No. 06410-2023.

Because the arguments raised by OPC in its Motion on this issue are reargument of its position at the December 5, 2023 Commission Conference, and fail to identify a point of fact or law that we overlooked or failed to consider in rendering its decision, this portion of OPC's Motion for Reconsideration shall be denied.

4. Used and Useful

In its initial MFRs filed on September 22, 2023, the Utility included in its used and useful calculations a five-year growth factor of 63 equivalent residential connections (ERCs). We used this value, and the methodology from the prior rate case Order, to determine the used and useful for interim rates of 92.2 percent. However, when the Utility filed revised schedules on October 26, 2023 to correct certain deficiencies, the five-year growth value changed to 85 ERCs, which would have changed the used and useful to 93.4 percent. We did not use this updated value due to an oversight. We find that granting reconsideration on this issue is appropriate because we did not have the correct ERC value before us when we made our decision on interim. However, we shall not modify the Interim Order or assess additional interim revenues to customers. An increase in used and useful of less than 2 percent would have the effect of causing a de minimis increase, if any, in interim rates. As stated by Pluris in its response, "due to the time constraints, the calculation of the interim revenue requirement is not always perfect. In a proposed agency action rate case, the interim rates are only in effect for a short period of time, so any error in the calculation will have nominal impact on the customers or Pluris." To avoid confusion and promote rate stability, we shall leave interim rates unchanged due to the short time period during which interim rates will be in effect before PAA rates are established.

5. Recovery of Judgment and Legal Fees Associated with Lawsuit

In its Motion, OPC stated:

OPC respectfully submits that the Commission should take caution in allowing the reclassification of the two recorded current and accrued liabilities as equity for interim purposes because the Commission previously has disallowed legal expenses associated with a lawsuit, as well as a retroactive ratemaking concern of increasing equity by previously expensed legal costs. The Commission has disallowed the capitalization of items previously expensed by utilities, as it was found to violate the prohibition of retroactive ratemaking.

In support of these statements, OPC cited Order Nos. PSC-98-1583-FOF-WS and PSC-01-0326-FOF-SU.¹²

¹²Order No. PSC-98-1583-FOF-WS, issued November 25, 1998, in Docket No. 971663-WS, *In re: Petition of Florida Cities Water Company for limited proceeding to recover environmental litigation costs for North and South Ft. Myers Divisions in Lee County and Barefoot Bay Division in Brevard County* (finding that recovery of litigation expenses constitutes unlawful retroactive ratemaking); Order No. PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, *In re: Application for increase in wastewater rates in Seven Springs System in Pasco*

First, neither Pluris nor we included any costs associated with the lawsuit in our respective interim revenue requirement calculations. Consequently, there can be no retroactive ratemaking implications because neither the judgment nor the legal expenses associated with the lawsuit were requested or included in interim rates. In order for the costs of the judgment or the legal fees to be included in rates, there has to be a specific expense associated with the judgment or legal fees included in operating expenses. When determining rates, the costs included for the capital structure include the interest expense on debt and an allowed return on equity, determined by us, to compensate shareholders for exposing their capital to risk. The operating expenses that are allowed are the expenses associated with providing utility service. If there are no expenses associated with the lawsuit included in operating expenses, there is no recovery of such costs from customers. Consequently, OPC's statement in its Motion regarding the determination of Pluris' equity that "[t]his means that Pluris customers will effectively be paying back what they won from Pluris in a settlement" is not correct. Furthermore, as evidenced by its statement above, OPC seems to be confusing the term recapitalization, which means "provide more funds," with the term "capitalize versus expense." Expensing a cost indicates that it is included on the income statement and subtracted from revenue to determine profit. Capitalizing indicates that the cost has been determined to be a capital expenditure and is accounted for on the balance sheet as an asset, with only depreciation showing up on the income statement.

Second, the Orders cited by OPC address whether certain legal fees should be allowed to be recovered in those dockets and whether recovery of such costs would amount to retroactive ratemaking. No legal fees associated with Pluris' lawsuit have been requested or allowed in this docket, so the point is moot.

Because the arguments raised by OPC in its Motion on this issue are reargument of its position at the December 5, 2023 Commission Conference, and fail to identify a point of fact or law that we overlooked or failed to consider in rendering the interim order, this portion of OPC's Motion for Reconsideration shall be denied.

Conclusion

OPC's Motion for Reconsideration shall be granted in part and denied in part. With respect to the Specific Equity Adjustment, Management Fees, and Recovery of the Judgment and Legal Fees Associated with the Lawsuit, we find that OPC's Motion shall be denied because it fails to raise a point of fact or law that we overlooked or failed to consider in rendering our decision. We find that the Equity Adjustments that were made are consistent with our prior practice. We further do not find that there is any methodology from the prior rate case to support OPC's position regarding Management Fees. We disagree with OPC's contention that reclassification of two recorded current and accrued liabilities as equity allows the Utility to recover the judgment and legal fees associated with a lawsuit against the Utility and constitutes retroactive ratemaking.

We agree with OPC's position regarding Advances from Associated Companies and Used and Useful; therefore, reconsideration is appropriate as to these issues. However, making the adjustments urged by OPC would have the effect of raising interim rates. To avoid confusion and promote rate stability, we shall leave interim rates unchanged due to the short time period during which interim rates will be in effect before PAA rates are established.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Office of Public Counsel's Request for Oral Argument on its Motion for Reconsideration of Order No. PSC-2023-0387-PCO-WS is hereby denied. It is further

ORDERED that the Office of Public Counsel's Motion for Reconsideration of Order No. PSC-2023-0387-PCO-WS shall be granted in part and denied in part, as set forth herein. It is further

ORDERED that as set forth herein, interim rates shall remain unchanged. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 22nd day of March, 2024.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.