

P R O C E E D I N G S

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2 **CHAIRMAN BRISÉ:** Now we are moving on to Item
3 Number 3.

4 **MS. HUDSON:** Commissioners, Shannon Hudson on
5 behalf of Commission staff. Item Number 3 was an
6 application for staff assistance by Utility Corporation.
7 They were granted a Phase II rate only to be implemented
8 once they completed some pro forma items. The utility
9 has only completed one of those items.

10 Our recommendation addresses whether or not an
11 extension of time should be granted to complete the pro
12 forma items. Staff is recommending that no extension be
13 granted and the docket be closed. Staff is prepared to
14 answer any questions at this time.

15 **CHAIRMAN BRISÉ:** All right. Thank you very
16 much.

17 Commissioner Brown.

18 **COMMISSIONER BROWN:** Thank you.

19 Ms. Hudson, are there any representatives from
20 the utility here today?

21 **MS. HUDSON:** No.

22 **COMMISSIONER BROWN:** Okay. In the
23 recommendation it states that the utility purchased the
24 pump and expects to have it installed at the transfer
25 pond by tomorrow, November 15th. Has staff -- what is

1 the status of the pump? Has staff been in contact with
2 the utility other than what's provided in the
3 recommendation?

4 **MR. SIMPSON:** Robert Simpson, Commission
5 staff. The pump was installed recently.

6 **COMMISSIONER BROWN:** It was already installed?

7 **MR. SIMPSON:** Yes.

8 **COMMISSIONER BROWN:** So it was prior to the --
9 do you know what date?

10 **MR. SIMPSON:** No, I'm not sure about the date.
11 Yes, but it was installed, I guess, a few days ago.

12 **COMMISSIONER BROWN:** Does that change your
13 recommendation?

14 **MR. SIMPSON:** No.

15 **COMMISSIONER BROWN:** Why?

16 **MR. SIMPSON:** Because of the fact --

17 **COMMISSIONER BROWN:** Because it's less than
18 one percent?

19 **MR. SIMPSON:** Yes, because of the fact that
20 the surge tank was not replaced. And that the tank --
21 if you look at the recommendation that we have, I think
22 we were saying that the tank should be replaced, and --
23 yes, and because of the fact that, I mean, it has not
24 been replaced, that is why we are saying that we should
25 not ask for any extension.

1 **COMMISSIONER BROWN:** Okay. But the tank was
2 already in place -- replaced. You don't know the exact
3 date, but it was prior to November 15th. They sent a
4 letter to the Commission timely prior to the deadline
5 asking for the extension of time, a courteous extension
6 of time. Also acknowledging the fact that there is a
7 DEP mandate to replace rather than refurbish the second
8 part of the Phase II, the surge tank. That's a separate
9 issue. But let's just focus on the first issue, which
10 is replacing the pump at the transfer pond, which has
11 already been done, yet staff is still saying that we
12 don't grant an extension to implement the Phase II?

13 **MR. SIMPSON:** Yes, because, see, the company
14 has two options. Option one is to purchase a tank and
15 some piping from a DeSoto County wastewater treatment
16 plant. That is the first option.

17 Now, the second option is to design a new
18 surge tank. Now, the company is saying that they want
19 to go with the first option, and there's no timeline for
20 that. So if we -- if we give them some time, we are not
21 sure on when they are going to replace that surge tank.

22 **COMMISSIONER BROWN:** Which is the second
23 component. There's two parts of this, okay?

24 **MR. SIMPSON:** Yes.

25 **COMMISSIONER BROWN:** And I know that staff

1 considered -- and the recommendation says the
2 appropriateness of extending the time to complete the
3 improvements for the replacement of the pump at the
4 transfer pond which has been done, but in the
5 recommendation it says to deny that because it would be
6 less than a one percent increase. And that's really the
7 sole reason to deny that, the appropriateness of that
8 portion, is that correct?

9 **MS. HUDSON:** That's correct.

10 **COMMISSIONER BROWN:** Okay. And I'm just
11 thinking in terms of fairness here.

12 **MS. HUDSON:** The pump has been replaced, and
13 we did indicate that's less than a one percent increase
14 if we were to grant them a rate increase based on what
15 they have already completed. The surge tank was a
16 repair. It's a replacement now with different costs
17 that we are not sure of at this time, but could result
18 in different rates than what we already have approved
19 for them.

20 **COMMISSIONER BROWN:** Okay. So you're just
21 grouping the two projects right now, the improvements
22 together?

23 **MS. HUDSON:** Correct.

24 **COMMISSIONER BROWN:** All right. Have you been
25 in contact with the utility?

1 **MR. SIMPSON:** Yes.

2 **COMMISSIONER BROWN:** Have you been in contact
3 with the Department of Environmental Protection to get a
4 gauge of how much the cost would be to replace rather
5 than refurbish, or the utility?

6 **MR. SIMPSON:** No, I have not done that with
7 DEP, because I don't think DEP can tell us the cost of
8 that surge tank.

9 **COMMISSIONER BROWN:** What about the utility?

10 **MR. SIMPSON:** Yes, they don't know. In fact,
11 if you asked me, I think I can give you an estimate.
12 That estimate could be about \$50,000 if they want to
13 actually replace that tank.

14 **COMMISSIONER BROWN:** You know, this is a
15 small, small, small utility.

16 **MR. SIMPSON:** Yes.

17 **COMMISSIONER BROWN:** And I'm just looking at
18 the first portion of the Phase II, the improvements.
19 You know, even though it's less than one percent, every
20 dollar counts to these small utilities. And when I read
21 the recommendation, I was a little concerned at the hard
22 line that the recommendation, that staff took,
23 especially now knowing the fact that the pump was
24 already replaced at the transfer pond.

25 So, just quickly, I guess there needs to be --

1 my understanding is that there needs to be more
2 communication to get a clear understanding of how much
3 that would -- the second portion, the replacement of the
4 surge tank would cost, right?

5 **MR. SIMPSON:** Yes, if I do understand you
6 well. Now with the surge tank, we don't actually know
7 the cost of it, and they don't want to actually give us
8 the cost of that surge tank, so I'm just trying to have
9 an estimate of that tank.

10 **COMMISSIONER BROWN:** There's no statutory time
11 frame here for this particular docket, right? Could we
12 possibly consider tabling this item so that staff could
13 consult with the utility and possibly DEP regarding the
14 cost associated with replacing rather than refurbishing?

15 **MS. HUDSON:** There is no --

16 **COMMISSIONER BROWN:** Adam?

17 **MR. TEITZMAN:** You're correct, Commissioner,
18 there is no statutory deadline.

19 **COMMISSIONER BROWN:** What are your thoughts on
20 that?

21 **MR. TEITZMAN:** If you wanted to table the item
22 and have staff take another look, that is an available
23 option.

24 **COMMISSIONER BROWN:** And get in contact with
25 the utility?

1 **MR. TEITZMAN:** Absolutely.

2 **COMMISSIONER BROWN:** Rather than making this
3 hard line and --

4 **MR. TEITZMAN:** That is certainly an option
5 available to the Commission today.

6 **COMMISSIONER BROWN:** That's kind of the path
7 that I think we should take, but --

8 **CHAIRMAN BRISÉ:** Commissioner Graham.

9 **COMMISSIONER GRAHAM:** I just want to -- when I
10 read through this, I was down the same line -- excuse
11 me, the same thought process as Commissioner Brown. But
12 if you look at where it says the case background, the
13 second paragraph, the last sentence, it says -- and you
14 have got to remember, the utility was given this a year
15 ago, September 10th, 2012. And it says that's when they
16 had to complete the pro forma improvements. It says the
17 utility is required to provide staff written
18 notification immediately if they encounter any
19 unforeseeable events.

20 Immediately means whenever it comes along.
21 They sent a letter three days before the deadline was.
22 I mean, so I don't think the staff has taken a hard
23 line. They gave them a year. If they ran into problems
24 a month later, six months later, nine months later, they
25 could have contacted staff. They waited until the last

1 minute to contact staff, and now they are saying, oh,
2 no. You know, we're trying. And the pump that went in
3 went in on the 15th of November. Well, it went in a
4 couple of days ago, which was still two months after
5 they were supposed to have this thing done.

6 **CHAIRMAN BRISÉ:** Commissioner Edgar.

7 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

8 I also, similar to Commissioner Graham, have
9 some concerns about that practice of waiting until the
10 last minute and not coordinating with our staff more
11 actively and more overtly. However, I do believe that
12 Commissioner Brown has raised some questions. And
13 recognizing that it has been a year already, I doubt
14 that another month or so would make much difference. So
15 with that in mind, I would support deferral and ask that
16 our staff bring this item back, either the same or
17 amended, whatever would be their recommendation, at a
18 meeting early next year.

19 **CHAIRMAN BRISÉ:** Commissioner Balbis.

20 **COMMISSIONER BALBIS:** Thank you, Mr. Chairman.

21 You know, one of the things that I have
22 mentioned, I believe previously in dealing with water
23 cases that I find interesting on how the Commission
24 regulates water utilities is that the period, the short
25 period of time for pro forma improvements. And I have

1 been used to municipal utilities having five-year
2 capital improvement plans so that you don't have to
3 adjust rates so frequently.

4 Here is a case where the utility isn't asking
5 to implement the Phase II rates before they have
6 completed the improvements, they simply want additional
7 time to do it. And so I'm fully supportive of tabling
8 this. And, alternatively, I would support simply
9 granting the extension of time. Because we are not
10 having them raise the rates as if the improvements were
11 made, it is just additional time to do it.

12 I mean, the other option would be to come back
13 in front of us again, spend money coming before us,
14 hiring consultants, et cetera. And, you know, they are
15 moving forward with the project, we are not increasing
16 rates, we are just granting an extension of time. So I
17 would be supportive of either granting the extension and
18 disagreeing with staff's recommendation or tabling the
19 item.

20 **CHAIRMAN BRISÉ:** All right, Commissioners. I
21 think we have had good discussion. I think we're in the
22 posture to entertain a motion or a few motions that may
23 be dueling.

24 Commissioner Edgar.

25 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

1 I move deferral of this item, ask that our
2 staff do some additional work and bring an item to us
3 that reflects that as it turns out to be, whatever that
4 is, and that it come before us at an agenda item in
5 approximately February, but I would say early next year.

6 **COMMISSIONER BROWN:** Second.

7 **CHAIRMAN BRISÉ:** Okay. It has been moved and
8 seconded. Any further discussion?

9 All right. Seeing none, all in favor say aye.

10 (Vote taken.)

11 **CHAIRMAN BRISÉ:** Any opposed?

12 **COMMISSIONER GRAHAM:** Aye.

13 **CHAIRMAN BRISÉ:** Okay. So we have one in
14 opposition. Thank you very much, staff.

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

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I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

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I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

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DATED THIS 11th day of December, 2013.

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