

P R O C E E D I N G S

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2 **CHAIRMAN GRAHAM:** Staff, take us through Item
3 No. 4.

4 **MR. VOGEL:** Good morning, Commissioners.
5 Matthew Vogel with Commission staff.

6 Item 4 is the application for a staff-assisted
7 rate case by Jumper Creek Utility Company in Sumter
8 County.

9 Jumper Creek currently serves 43 water and
10 43 wastewater customers in Sumter County. And
11 Mr. Reilly and Ms. Merchant are here on behalf of the
12 Office of Public Counsel, and I believe Mr. Deremer and
13 Mr. Rendell are here on behalf of the utility. And at
14 this time, staff is available for any questions.

15 **CHAIRMAN GRAHAM:** Mr. Deremer and Mr. Rendell,
16 you guys have the staff recommendation. Do you have any
17 comments or questions about the staff recommendation, or
18 concerns?

19 **MR. RENDELL:** I believe we're here to support
20 staff's recommendation. There may be small specific
21 adjustments we may not, may not agree with, but we're
22 here to support staff's recommendation in its entirety.

23 **CHAIRMAN GRAHAM:** Okay. Sounds good.

24 OPC.

25 **MR. REILLY:** Thank you, Chairman,

1 Commissioners. In addition to myself and Ms. Merchant,
2 we also have Deputy Public Counsel Charles Rehwinkel in
3 attendance with the hope of making some opening remarks
4 on this item. After those opening remarks have been
5 made, it's my intention to address the Commission on
6 Issue 6, operating expenses, specifically miscellaneous
7 expense for the water system, which is located on page
8 15 of the recommendation. And then Ms. Merchant's issue
9 that she would like to address is Issue 7, the operating
10 ratio method, and that is on page 17 of the
11 recommendation. It relates only to the wastewater
12 operations. So I'll be talking about that one issue on
13 water, Ms. Merchant on that one issue on wastewater.
14 But with your indulgence, perhaps opening remarks from
15 Mr. Rehwinkel.

16 **CHAIRMAN GRAHAM:** Are we sure that he knows
17 anything about water? I thought he was the electric
18 guy.

19 (Laughter.)

20 Mr. Rehwinkel.

21 **MR. REHWINKEL:** Thank you, Mr. Chairman.
22 Charles Rehwinkel with the Office of Public Counsel.
23 And as Mr. Reilly said, I'm the Deputy Public Counsel.

24 I'm here today on this case to express the
25 Public Counsel's concern about the application of an

1 operating ratio methodology being applied in a way that
2 was not intended when it was originally designed.

3 The recommendation before you represents an
4 unprecedented departure in our view from the legal
5 requirements for this Commission to set rates on a cost
6 basis for a system of this nature.

7 Mr. Chairman, in my previous stint at the
8 Public Counsel's Office I did do a fair number of water
9 cases, and when I was here as the Commissioner's and
10 Chairman's aide, I was here when this policy was
11 developed, so I'm very familiar with it.

12 This is a system that's -- it's probably one
13 of the smallest in the state -- 43 customers, 44 percent
14 wastewater increase -- but it is under the control, the
15 common control of the owner, the principal shareholder
16 of one of the largest water utilities in the state. It
17 was acquired for about \$10 or maybe an apportioned
18 amount of \$10 from another large corporation, Aqua. And
19 this system was bought with eyes wide open.

20 The proposal by the staff in a PAA to apply a
21 policy that is clearly enunciated in orders but is not
22 in a rule to this utility is not mandated. The only
23 thing this company is entitled to is cost-based rate
24 recovery under the statute. This policy of operating
25 ratio has been applied very sparingly on a very

1 discretionary basis by the Commission in the past 20
2 years, or 19 years since its inception.

3 The Public Counsel has an alternative proposal
4 to the operating ratio methodology that we would like
5 for the Commission to consider, and you will hear more
6 about this. We believe it is more legally sound and is
7 more closely hued to the cost basis for rate setting,
8 and it will avoid the need for this office to seriously
9 consider protesting this very small case to challenge
10 this application of the policy.

11 This policy is -- was designed for mom, true
12 mom and pop water cases, water systems, the kind that
13 would come in with their, their books and records in a
14 shoe box and give them to staff, and staff would do
15 their staff assistance work and they would set rates and
16 they would recommend rates to the Commission really to
17 avoid the specter of abandonment.

18 That's not the case that you have here because
19 of this system and U.S. Water. It's our concern that
20 you're taking a sparingly used policy and applying it in
21 a way that it was never intended.

22 Our pitch to you today is that a PAA is, one,
23 a process that is born out of efficiency, and the
24 purpose should be to get it right here today so that a
25 costly hearing can be avoided, and we would like to urge

1 you to seriously consider the proposal that you're about
2 to hear from Ms. Merchant and Mr. Really.

3 The recommendation that we would have for you
4 would probably set their revenue requirement -- or their
5 revenue increase about \$26,500 instead of the, the
6 recommendation by the staff, which is at about the
7 \$29,500 mark. And we also believe if you, if you
8 seriously consider this, that this would avoid
9 litigation over what we think is an unwise expansion of
10 this rarely used operating ratio to a large corporate
11 entity. And with that, I'll turn it over to Mr. Reilly.
12 Thank you.

13 **CHAIRMAN GRAHAM:** Just a second. So,
14 Mr. Rehwinkel, I guess I'm trying to understand, you
15 said that this is used for -- it was designed for the
16 small mom and pops --

17 **MR. REHWINKEL:** Yes, sir.

18 **CHAIRMAN GRAHAM:** -- because, to kind of give
19 them a little, we'll call it flexibility.

20 **MR. REHWINKEL:** Yes.

21 **CHAIRMAN GRAHAM:** Because of the fear that
22 they may, quote, walk away.

23 **MR. REHWINKEL:** Yes.

24 **CHAIRMAN GRAHAM:** Are you saying that U.S.
25 Water cannot walk away in this instance or you wouldn't

1 anticipate them walking away?

2 **MR. REHWINKEL:** I think -- when you look at
3 the Lake Osborne order, which is where this all started,
4 there's a bunch of criteria and it's kind of well
5 thought out, it gives the Commission flexibility under
6 the statute and the rule. It is born largely of that
7 concern. And I think the things that exist for the
8 utility that it was originally designed for don't exist
9 here today.

10 U.S. Water is a very sophisticated company.
11 They do a good job. The rate -- the service is good.
12 You can see they're responsive to the customers.
13 That's, that's kind of their MO, and we commend them for
14 that. But they're dedicated to this system, and I don't
15 think that's a risk.

16 When the Commission sets rates, you're
17 evaluating risk and you're kind of evaluating is there
18 so little capital investment here that the operating
19 expense is where the big risk is. I think it's a closed
20 question here and it's not quite one that begs for that,
21 plus this is just not the kind of system that it was
22 designed for.

23 **CHAIRMAN GRAHAM:** I mean, so your concern is
24 not the \$3,000 that we're talking about. Your concern
25 is setting the precedent.

1 **MR. REHWINKEL:** That, that is part of it, yes.
2 Yeah. And, I mean, we have tried to work this out.
3 Understandably, nobody is obligated to work things out
4 in an alternative way. We would prefer to do that
5 rather than set the precedent. We think the staff's
6 recommendation is pretty close in the ballpark, but we
7 really, we really want to kind of avoid the, the, the
8 precedent that is unintended. Yes, sir.

9 **CHAIRMAN GRAHAM:** Do you think there's still
10 possibilities of working it out?

11 **MR. REHWINKEL:** I think there always is, but,
12 you know, I don't know. One of the things that we had
13 asked for early on was for a deferral, but I don't know
14 that deferral would, would make sense to do that. It
15 would be another month before we came back.

16 **CHAIRMAN GRAHAM:** I mean, the reason why I ask
17 that question is because I sure don't want to see a
18 legal proceeding over \$3,000, because you're going to
19 spend ten times that.

20 **MR. REHWINKEL:** Yeah. We don't either. And
21 it just, it is a big concern because we think this is,
22 this is a quantum leap for a policy that is rarely used
23 by this Commission, but it is used in the right way for
24 the, for the right type of utility. And we just don't
25 think this -- this company doesn't beg for that kind of

1 approach.

2 **CHAIRMAN GRAHAM:** Staff, I take it we're right
3 up against a deadline as far as not being able to defer
4 anything; correct?

5 **MR. YOUNG:** No. No, sir. We -- if the
6 Commission -- if it is the will of the Commission, the
7 Commission can defer it. We have a statutory deadline
8 of January 5th, 2016.

9 **CHAIRMAN GRAHAM:** Jumper Creek?

10 **MR. RENDELL:** A couple points. One, I do want
11 to point out in a recent case that we had -- and I
12 apologize, I'm not sure if it was LP or Lakeside --
13 which OPC was a party to, there was an operating ratio
14 approved. And that was one that we also own -- that
15 Mr. Deremer owns, so it's very similar to that.

16 If you go back to the Lake Osborne order,
17 which coincidentally we now own that one as well, you
18 know, this policy was established when I was also at the
19 Commission. And, you know, some of the points that the
20 Commission did point out in the order is they wanted the
21 customers -- to make sure that they retained the benefit
22 of the CIAC, that's one of the points, which they do;
23 that the owner would not be unjustly enriched, which is
24 not occurring in this particular docket; that there's no
25 transition of risk from the owner to the customers,

1 which also is not occurring.

2 You know, some of things that's not pointed
3 out is this utility is actually receiving numerous
4 subsidies from U.S. Water as well as the shareholders.
5 The actual cost to run the water and wastewater is not
6 being recovered. We went and looked at the actual cost,
7 and the utility is actually being subsidized by several
8 thousand dollars on both the water and the wastewater.

9 This is a very unique utility. When Aqua
10 purchased it or was purchasing it, it was previously
11 owned by a developer run HOA, who, when the economy was,
12 was on the downturn, basically abandoned it. Once, once
13 they got the money from Aqua, he left. And Aqua tried
14 to give it back to him because there was some issues
15 with the existing acquisition rule at that time, and so
16 Aqua had tried to give it back. And as a result of
17 Jumper Creek, that resulted in the change in the
18 acquisition rule on the negative acquisition
19 amortization.

20 The utility has never come in for a rate case.
21 Its -- the rates were set basically to sell homes by the
22 developer, so it's never had a rate case. Under
23 traditional ratemaking, if there is not this low
24 purchase price of \$10, the rates would be considerably
25 higher. There would not be this negative acquisition

1 adjustment, and the rates for these 43 customers would
2 be extremely high if it weren't for the low purchase
3 price that was achieved.

4 There are, there are lower operating costs, as
5 I said. There are subsidies being received. There are
6 numerous, numerous people that work and provide services
7 that do not charge for Jumper Creek. One that
8 Mr. Reilly is going to speak of is this permitting. We,
9 you know, we've had this engineer working on trying to
10 get the permit costs unsuccessfully for the last three
11 days. None of those costs are charged to the utility.
12 It's absorbed by U.S. Water, and one of the reasons is
13 the small customer base. I think -- yeah.

14 **MR. DEREMER:** For the record, Gary Deremer.

15 I think it's important for the Commission to
16 understand how the system came into our ownership and,
17 you know, my thoughts as a system owner when we look at
18 this system and many systems around the state. As Troy
19 said, the system is a result of the Aqua company leaving
20 the state, exiting the state. Remnants were left
21 behind. They were named the orphaned systems. Some
22 other names have floated around. But we operate for the
23 FGUA, and I've been involved in this system, you know,
24 since the beginning of the contemplation of the
25 transaction between FGUA and Aqua.

1 This system, among many of the systems that
2 remained, you know, there was an attempt to give the
3 system away, to give it to the county. I met with the
4 county administrator myself. They didn't want it. We
5 operate in the area -- the closest municipal is the City
6 of Webster. We met with those folks. They didn't want
7 it. So we end up with these systems.

8 And I'm very in tune to system rates and what
9 the end user has to pay. If the system was to really be
10 assessed its cost of management, imagine you've got less
11 than 100 customers here with a water and wastewater
12 system, we do everything we can to try to keep the costs
13 down, but it's just impossible. If you assessed all the
14 costs required to run this system, these people's rates
15 would probably be \$200 a month, \$220 a month. It
16 just -- it's not realistic. Okay? So because we don't
17 want to charge those people those kind of rates, we
18 subsidize the system in many areas: Of office, of
19 management, of professional time. You know, there's no
20 attorneys involved in these systems. We're always
21 looking for ways to cut costs.

22 So when I look at, you know, adjustments that
23 staff have made and the \$3,000 we're talking here, the
24 subsidies that we're giving this system far extend
25 beyond that. Certainly for, for us the way to reduce

1 the subsidy is for us to buy more systems, which we've
2 been trying very diligently to do, because we end up
3 with a small number of customers with a lot of fixed
4 costs.

5 So another point of clarification as far as
6 ownership goes, this system has two shareholders with
7 U.S. Water, you know, of the other six that are there
8 that do not have ownership in the system. So there
9 isn't a like-for-like ownership between the two
10 corporations. The systems were always designed to try
11 to stand on their own, but knowing that some subsidies
12 would have to exist. And many of the other systems
13 that, and some of which will come before you that were
14 previously owned by Aqua, there were subsidies that were
15 going on there too, which were basically absorbed into
16 rate bands. When that transaction -- when Aqua left the
17 state, when that transaction was consummated, all those
18 subsidies from Aqua went away. So we know that they
19 can't be run on their own unless the rates would be,
20 well, untenable to people.

21 We have considered abandonment of systems if
22 we think it's in the customer's best interest. For
23 example, if an abandonment could be done in coordination
24 with some grants and things like that, we would be happy
25 to abandon the system so that -- if it resulted in

1 ultimately a lower customer rate, then that would
2 certainly be on the table for us. And we have a couple
3 of systems that we've talked about is it, is it better
4 for the customers for us to abandon it? That's why we
5 didn't pay anything for them. So anything is on the
6 table for us.

7 Remember, our interest -- we're the largest
8 contract operator in the state. We probably service
9 more than a million customers. Our reputation at
10 U.S. Water is very important to us -- of the utmost
11 importance because we get hired based on qualification.
12 So we don't want to be known as a system owner that has
13 high rates, so we're always looking for alternatives to
14 try to push our rates down. And that's why I just want
15 to make sure when it was said, well, abandonment is not
16 possible, it is if it's in the benefit of the customers
17 for us.

18 **CHAIRMAN GRAHAM:** Well, one of the things you
19 said is you're always looking for ways to cut costs, and
20 that's the reason why I paused to talk about the
21 deferral. Because the dollar amount we're talking about
22 is really insignificant. It's the principle, as OPC is
23 saying, and I don't know if you're saying that it's the
24 principle or if it's the dollar amount.

25 My concern is, or my question to you is do you

1 think another 30 days with sitting back and talking to
2 staff and OPC will make any changes or should we move
3 forward with this? Because since it is a PAA, it is
4 very easily appealed, and that means we're coming back
5 in here again and spending more money to work our way
6 through this. So I guess my question to you is do you
7 think the 30 days is worthwhile or not? If not, we're
8 here to vote on this thing.

9 **MR. DEREMER:** Let me answer the question this
10 way. As far as deferring for an issue of principle,
11 that's kind of the first I'm hearing of an issue of
12 principle. The dollar amount that we're talking about
13 here again is very small. Certainly we wouldn't be
14 hiring an attorney to defend some -- I mean, it just
15 makes no -- it totally cuts against everything that
16 we're all about. So if we -- if there's a precedence
17 issue there that needs further discussion, I would agree
18 to defer it, if that is the issue of precedence, and
19 then we could, we could talk about it. But, you know,
20 from the position of the dollar amount, I just want to
21 make sure that we're clear here. We're not trying to
22 recover all of our costs here. We'll never recover all
23 of our costs and have affordable -- we'd run the people
24 right out of their homes. Okay? So, you know, I
25 just -- if we're talking about precedence, I'm not too

1 worried about the \$3,000 in a deferral. So that's
2 how -- I mean, I'm okay with that from that perspective.
3 And, Mr. Reilly, I guess, you know, we can, we can talk
4 about that, I guess, further.

5 **MR. REILLY:** And Charles Rehwinkel may want to
6 say something, but, yes, it's possible that a settlement
7 could be reached on a dollar amount and not really even
8 speak to the issue for the operating ratio. I mean, I
9 think that is a basis that we could go forward.

10 **CHAIRMAN GRAHAM:** Mr. Rehwinkel.

11 **MR. REHWINKEL:** Yeah. Mr. Chairman, I concur
12 with that. And I appreciate the remarks of, of
13 Mr. Deremer and Mr. Rendell. I mean, we -- but we
14 would -- we think it would be prudent and worthwhile to,
15 to talk about this and bring it back.

16 **CHAIRMAN GRAHAM:** I mean, I think it's
17 something that we -- that can be fixed. I don't see
18 having to make a ruling now and have to come back to
19 this all over again. I think -- if you guys can come
20 together and work this out. Staff, is there any concern
21 or do we need to just defer to the next meeting?

22 **MR. MAUREY:** I agree with Mr. Rehwinkel,
23 something can always be worked out, but I don't know
24 what that is going to be now.

25 **CHAIRMAN GRAHAM:** Well, worst-case scenario,

1 we're back here again 30 days from now.

2 **MR. MAUREY:** Yes.

3 **CHAIRMAN GRAHAM:** All right. Well, then I
4 think I'm going to defer this. I understand what
5 U.S. Water has done. We all -- there's not a person up
6 here that doesn't appreciate what you guys have done, I
7 mean, especially when it comes to customer service.
8 OPC, I know for a fact, appreciates that because their
9 phone is ringing less. And so I think going into the
10 process with your eyes open, I think you guys can work
11 this thing out. And that all being said, we'll defer
12 Item No. 4 and move on to Item No. 11.

13 **MR. REHWINKEL:** Thank you.

14 (Agenda item concluded.)
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1 STATE OF FLORIDA)
 : CERTIFICATE OF REPORTER
2 COUNTY OF LEON)

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4 I, LINDA BOLES, CRR, RPR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.

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

18 DATED THIS 25th day of June, 2015.

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