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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 150149-WS

APPLICATION FOR STAFF-ASSISTED RATE CASE IN GLADES AND HIGHLANDS COUNTIES BY SILVER LAKE UTILITIES, INC.
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PROCEEDINGS:	COMMISSION CONFERENCE AGENDA ITEM NO. 8
COMMISSIONERS PARTICIPATING:	CHAIRMAN JULIE I. BROWN COMMISSIONER LISA POLAK EDGAR COMMISSIONER ART GRAHAM COMMISSIONER RONALD A. BRISÉ COMMISSIONER JIMMY PATRONIS
DATE:	Tuesday, August 9, 2016
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	LINDA BOLES, CRR, RPR Official FPSC Reporter (850) 413-6734

P R O C E E D I N G S

CHAIRMAN BROWN: All right. Our last item is Item 8, Silver Lake.

MR. HILL: Good morning again, Commissioners.

CHAIRMAN BROWN: Good morning.

MR. HILL: I'm Adam Hill with Commission staff.

Item No. 8 is an application for an increase in water rates for Silver Lake Utilities, Inc., in Glades and Highlands County.

The utility has several unique circumstances staff would like to note. Rates were originally set for Silver Lake in 2007 and were based on an 80 percent build out of an anticipated three- to four thousand customers. The residential development that this was based on did not materialize, and the utility now serves approximately 62 customers; namely, its other business units, affiliated employees, and a local church. Since that time, Silver Lake has reduced its planned plant capacities, O&M expenses, and contractual service expenses. Despite these changes, the utility is unable to collect compensatory revenues from its small customer base and has been operating at a loss since its inception.

Additionally, the utility pays all of its customers' bills. The utility has stated that it is pursuing a rate increase to avoid having one of its operating entities subsidize another. Representatives from the Office of Public Counsel are here and would like to speak. Representatives from the utility are available to answer any questions you may have, and --

MR. VOGEL: Staff has an oral modification. I believe all the Commissioners and all parties got ahold of the oral modification. I can go through it, if you'd like.

CHAIRMAN BROWN: Yes, please.

MR. VOGEL: Sure. On page 13, under rent of buildings and property -- let's see, sentence No. 3, beginning, "However, in Order No.," should read, "However, in Order No. PSC-07-0983-PAA-WS, the Commission included these contracts in the revenue requirement determination." This also changes the footnote.

CHAIRMAN BROWN: Thank you.

Okay. Mr. Friedman.

MR. FRIEDMAN: Good morning, Madam Chairman, Commissioners.

CHAIRMAN BROWN: Good morning.

MR. FRIEDMAN: Marty Friedman. I'm the attorney for Silver Lake Utilities. Also with me is

Noah Handley, who is the utility director, and Cari Roth of the Dean Mead law firm, who's sitting back here.

CHAIRMAN BROWN: Hi, Ms. Roth. How are you? Thank you.

MR. FRIEDMAN: And we're just available to respond to any comments by the Office of Public Counsel and also to respond to comments or questions that you may have.

CHAIRMAN BROWN: Thank you. And we will go right to OPC. Thank you for your participation in this.

MS. ROTH: Good morning, Madam Chair and Commissioners. Danielle Roth for the Office of Public Counsel. And with me is Ms. Tricia Merchant, who can also respond as well.

During the course of this case, the Office of Public Counsel filed two letters -- one on February 8th, 2016, and one on April 11th, 2016 -- each with a list of issues and concerns with staff's preliminary findings in the staff report dated January 21st, 2016.

OPC hoped that the postponement of the staff recommendation and subsequent agenda hearing meant that we would see a big adjustment between the staff report and the staff recommendation; however, we are disappointed to see that there is very little difference between the report and the recommendation.

The main concerns OPC will speak to today are in regards to Issue No. 6, operating expense; Issue No. 7, revenue requirement; and an overlying concern of prudency of cost when providing service.

So to begin, Section 367.081(2)(a)(1), ***Florida Statutes***, states in part, "The Commission shall fix rates which are just, reasonable, compensatory, and not unfairly discriminatory." Further, subsection 3 states, in part, "The Commission, in fixing rates, may determine the prudent cost of providing service."

For the reasons I will state, OPC does not believe that a revenue increase of 399 percent, as shown in Issue 7, page 15, of the staff recommendation is just, reasonable, or prudent.

First, in Issue 6, page 12, purchased water, Silver Lake gave no evidence to support why it is reasonable and prudent to pay its parent company and recover from its ratepayers a 20-cent royalty per thousand gallons for withdrawing water when Silver Lake is paying to lease the land on which the wells are located. Silver Lake owns the plant and equipment to withdraw the water, Silver Lake pays the expenses to withdraw the water, and Silver Lake pays the taxes on the leased land. OPC submits this is not a prudent expense for the utility to pass on to ratepayers.

In Order No. PSC-96-0859-FOF-WU issued July 2nd, 1996, in Docket No. 951029-WU, in re: Investigation into rates and charges of Florida Cities Water Company, the Commission did allow royalty expense. However, the Commissioners found that the reasonableness of the expense was based on the Commission's determination of the original cost value of the land and its related earnings, taxes, and other expenses spread over the expected gallons to be pumped each year. Significantly, even with this determination, the Commission did not allow both a lease expense and a royalty expense.

OPC requests that Silver Lake be required to provide evidence to support why it is reasonable and prudent to pay its parent company a 20-cent royalty per thousand gallons pumped.

Second, in Issue 6, page 13, rent of buildings and property, Silver Lake's recorded rental of buildings and property expense is $44,095. Staff found that this expense is reasonable because of the PSC order issued December 10th, 2007, in Docket No. 060726-WS, where the Commission included Silver Lake's lease contracts in their revenue requirement determination. OPC appreciates staff catching their original error of stating that the Commission approve

Silver Lake's lease contract as prudent, but we still disagree with the rationalization of staff's recommendation.

First, Docket 060726-WS was for Silver Lake's application for certificate to provide water and wastewater and was not for a rate case. And second and more importantly, PSC Order 07-0717-FOF-WS, page 3, states, "It should be noted that acceptance of Silver Lake's leases will fulfill the requirement to show long-term access to the land on which water and wastewater facilities are currently located and on which future facilities will be located." It does not reflect a determination as to the prudence of the cost of these leases.

In Order No. PSC-96-0663-FOF-WS issued in Docket No. 950336-WS, in re: Application for rate increase in Charlotte County by Rotonda West Utility Corporation, the Commission stated, "We have addressed the valuation of land purchased from related parties in numerous cases and reviewed those decisions in reaching our conclusions in this matter. These cases demonstrate that it is the utility's burden to establish the original cost of the land when first devoted to public service. In order to make a determination regarding the appropriate treatment of the land, it is necessary to review, number one, when the property was dedicated to public use and, number two, what the appropriate cost was at the time of the dedication."

Silver Lake has not provided staff any evidence regarding the original cost when the land was dedicated to public service.

Third, concerning Issue 6, page 12, contractual services management, in Issue 6, page 13, contractual services other, Silver Lake has stated that 25 percent of the manager's time is spent on utility management for salary and benefits of $2,305 per month. This equates to a full-time salary and benefit of $110,640 a year. Silver Lake has not provided staff any documentation supporting the reasonableness or analysis that the amounts charged to the utility are reasonable for this size utility serving only 62 customers. The only explanation in the staff recommendation for the manager's salary and contractual services other is that due to the physical size of the utility's service territory, 350,000 acres, and the remote location of many of the facilities, this expense is prudent and necessary to operate the utility. However, this does not address the prudency of having 62 customers over 350,000 acres.

According to staff audit work papers, the utility owner charges Silver Lake $6,874.11 per month in affiliate charges for land leases, office rental, contract maintenance, office support, utility management, and vehicle costs. For 62 customers, this equates to $105 in expense per month in affiliate charges. OPC is concerned that this level of affiliate expenses far exceeds the level that would be deemed reasonable or prudent for a comparably sized utility.

Fourth, as a result of the SARC, OPC has begun to question the prudency of Silver Lake Utility and the reasonableness of a utility to have a service area of 350,000 acres with 62 customers and 28 wells.

Section 367.021(12) of the ***Florida Statutes*** states, in part, "Utility means a water or wastewater utility who is providing or proposes to provide water or wastewater service to the public for compensation." OPC does not question whether Silver Lake is providing water; however, we do question whether Silver Lake is providing water to the public and whether the water provided is for compensation

Page 1 of the staff recommendation states that Silver Lake provides water service to 39 residential and 23 general service customers. Issue 7, page 15, of the staff recommendation states that Silver Lake is

100 percent owned by its parent company, and the customer bills are paid by the divisions of the parent company. To clarify, the consumers that receive water service from Silver Lake do not pay anything for it. The water is currently paid for 100 percent by the owner of the utility, meaning the utility receives no compensation from these customers. Further, the only customers not directly affiliated with the parent company is Brighton Baptist Church. And in a response to a staff data request which was filed March 1st, 2016, Silver Lake stated, "The church pays their monthly bill and, upon receipt, the parent company makes a monthly donation to the church in the amount of the bill." Thus, just like the other customers, Silver Lake receives no compensation from the church for the water they provide. As a result, staff found that an increase in rates will not negatively affect any ratepayers not affiliated with the parent company and compensatory rates should be approved. The recommended rates represent an increase of approximately 399 percent over the current rates.

Additionally, Issue 8, page 17, of the staff recommendation states that, "When there is such a significant increase in revenues, staff would typically recommend a repression adjustment." However, in this instance, the customers' bills are paid by the owner of the utility rather than the customers. So since the customers do not pay for their water service, there would be no pricing signal sent to the customers for conservation efforts.

On February 1st and 26 of 2016, OPC met with Silver Like to understand how the customer billing worked at Silver Lake. OPC was told that each month three water bills go out: one to the ranch division, one to the citrus division, and one to Brighton Baptist Church. The ranch and citrus divisions include all the parent company's offices, shops, barns, mechanic areas, and employee homes of the ranch and citrus groves. The employees of the ranch and citrus groves do not pay rent or pay for water. They only pay for electric and cable.

In addition, there are three Florida Fish and Wildlife officers that live on the parent company's property, and they also do not pay for rent or pay for water. The parent company currently has a long-term lease with Brighton Baptist Church that states that as long as Brighton Baptist Church remains a church, it will not have to pay rent while on the parent company's property. Furthermore, as stated previously, each month the church receives a water bill from Silver

Lake, but then the church receives a charitable donation from the utility owner in the exact same amount as the water bill.

When OPC asked Silver Lake why it is certificated when it doesn't actually make a profit from any customers, Silver Lake said it's sure the owners has its reason, but at this point they're just paying themselves. Moreover, Silver Lake informed OPC that it met with the supervisors of the employees of the ranch and groves to tell them the employees do not need to attend the customer meeting on February 11th, 2016, because the employees don't need to worry about the change in rates since it won't affect them. As a result, no customers attended the February 11th customer meeting for Silver Lake.

On April 11th, 2016, staff counsel and I discussed these conversations that OPC had with Silver Lake. OPC does not think that Silver Lake was trying to be deceitful by telling the employees not to come to the customer meeting. Rather, OPC submits this shows the mindset of Silver Lake, meaning that Silver Lake did not believe that the tenants, who do not receive a water bill, and the church, which is reimbursed each month for its water bill, needed to attend a customer meeting about a rate increase when none of them are actually responsible for paying a water bill.

It is for all these reasons that OPC questions whether Silver Lake provides water to the public, whether the water provided is for compensation, and if Silver Lake is, in fact, a utility pursuant to Section 367.012(12).

Fifth and lastly, promise -- I know it's lengthy.

CHAIRMAN BROWN: You're doing a good job.

MS. ROTH: I know it's lengthy.

CHAIRMAN BROWN: I'm giving you some latitude here.

MS. ROTH: Schedule No. 4 on page 32 of the staff recommendation shows that the typical residential meter bill for 5,000 gallons will go from $38 to $182. This is a 379 percent increase. And this is kind of -- this is kind of what we're getting at. What happens to the employees, tenants, and church if Silver Lakes begins charging them for their water each month?

According to Issue 8, page 17 of the staff recommendation, the average residential water consumption is 5,378 gallons per month. So how will these customers afford to pay a monthly water bill of more than $182 a month and what will happen to these customers if Silver Lake decides to sell the utility in an arm's length transaction? OPC strongly urges the Commission to consider not only what can happen to the customers in this case, but also the precedent that's being set for future cases if the Commission approves the 399 percent revenue increase that staff is recommending. What will keep other utilities from pointing back to the order in this docket as authorization for immense increases in their rates? And based on this case, what will prevent other utilities from building imprudently sized utilities?

In conclusion, OPC is asking this Commission to deny the rate increase or at least defer this matter until proper documentation is provided to staff by Silver Lake. The expenses are not justified and Silver Lake has simply not met its burden. If, after hearing the argument made by OPC today, the Commission is still inclined to set a rate with the limited documentation provided by Silver Lake, OPC recommends no more than a 50 percent rate increase. Thank you so much for your time.

CHAIRMAN BROWN: I'm sorry. Did you say 50?

MS. ROTH: Fifty, 5-0. Thank you very much.

CHAIRMAN BROWN: Thank you.

Mr. Friedman, would you like to respond to some of those delineated issues?

MR. FRIEDMAN: I certainly can. First of all, let me start with the comment that the customers were told not to attend. That's just not true. I mean, Chris Shoemaker, who was the utility director at that time, Mr. Handley has just taken over the last couple of months, Chris Shoemaker says that never occurred.

Keep in mind a couple of things. One is that this is a staff-assisted rate case. The utility turns over its records to the staff. The staff does its analysis. The staff wants documentation; they ask for the documentation for different expenses. If they don't ask for any additional documentation and accept the documentation that was filed, then there's no additional documentation to provide. And that's where I think that OPC is confusing the process of a staff-assisted rate case with that of a file and suspend rate case where it's the utility who's the one who pushes the rate case forward by providing all the documentation.

In a staff-assisted rate case, the utility fills out the form and the staff does an audit, and the staff asks it if it needs any additional information. And the utility has responded to every data request that staff has provided and provided every response that they want to be provided.

I know that OPC is concerned about a precedent.

You know, this is a unique situation, a unique utility. And I'm sure that the competent legal counsel by OPC, if this issue were raised in the future, could easily understand and explain the uniqueness of this system and why it's almost like an anomaly, and it wouldn't be precedence for some other gigantic rate increase that some other fictitious utility might have.

I mean, the issue of whether they should be certified at all is really not an issue in this case. I mean, that's not an issue, and I won't address it unless one of the Commissioners has a specific question about it.

The staff handled this case the way it handles staff-assisted rate cases. The numbers are what the numbers are. It just so happens that it is a large number in this case, but that number will change as the utility grows. And it will grow. It's such a small base, when development starts coming back, and we certainly expect it to be, it will change the dynamics of this substantially.

CHAIRMAN BROWN: Can you elaborate a little bit more on that? Once development does start to occur, how will that change?

MR. FRIEDMAN: Well, you'll have -- number one is that they will have to put in -- likely have to -- at the least the plan that was in effect when they did this was they would likely have to build a new water and sewer plant, so they would have, you know, additional investment and certainly economies of scale. I mean, any reasonable size development, even something of 100 customers would more than double the size, and certainly you would gain some economies of scale.

I think that if you look at individual expenses, as I think staff mentioned at the outset, you know, a lot of the expenses are less now than they were in the original certificate case because, you know, the growth isn't there, didn't happen -- you know, this was the mid, you know, '05, '6, '7. You know, we all know what happened after that. And it's coming back, but it's coming back slowly. And it will -- and once we get those economies of scale, I think you'll see some significant change in these rates. But, you know, the staff did their analysis just like they do every one, and the numbers are what the numbers are.

CHAIRMAN BROWN: Okay. Ms. Merchant also -- I'm sorry, Ms. Roth also raised the issue of royalty in the purchased water category. Can you address that?

MR. FRIEDMAN: Yeah. I mean, the -- in the original certificate application, the utility asked for a royalty consistent with -- I think it was the Town and

Country case was the one that was a 20-cent royalty that was -- that this Commission had approved in, I think, '99, a 20-cent royalty. And so picking up on that, that's what the utility had proposed in its original filing, and this Commission accepted that in the original filing and it's included in the rates.

Nobody -- you know, since then there hasn't been any additional requests on information about it, so we didn't -- we provided what we did with the original application and nothing since then because nobody asked.

CHAIRMAN BROWN: Okay. Any other items you'd like to address? They also raised contractual services, the management other, the rent of the buildings and the property? Any other items that you'd like to respond to?

MR. FRIEDMAN: I'm going to let Mr. Handley address the management part of it.

CHAIRMAN BROWN: Okay.

MR. FRIEDMAN: The leases are similar to the royalties. We, you know, filed the original application. The lease fee was included. The Commission required that we execute leases and record those -- and record those and file them with the Commission, and the utility did everything that they were asked to do in connection with those leases from the original case. I'll now let Mr. Handley deal with the issue of the management. Thank you.

CHAIRMAN BROWN: Welcome, Mr. Handley.

MR. HANDLEY: Madam Chairman, Commission, thank you for the opportunity to visit with you today.

As far as the issue with the management services, those services are for managing the utility. The question of a reasonable for the rate -- for the base of customers that are there, it was, it was set up with the anticipation of growth. That growth stalled. We're all aware of that.

We -- the utility retracted some of those services, but it's the services that are required to run a utility, and it's the accounting management services to meet all the obligations that we have to through all of our regulatory and our PSC responsibilities.

CHAIRMAN BROWN: So have the operating and management and other expenses gone down since the certification or the -- in 2007, 2008?

MR. HANDLEY: Yes.

CHAIRMAN BROWN: Yes. And why have they gone down?

MR. HANDLEY: We were trying -- with adjusting our staff and adjusting our responsibilities, keeping to adjust the utility for the lack of growth that was there, we adjusted our -- we adjusted those responsibilities of those services.

CHAIRMAN BROWN: Okay. Thank you. Any further comments, Mr. Friedman?

MR. FRIEDMAN: No. Thank you.

CHAIRMAN BROWN: Okay. Ms. Merchant, go ahead.

MS. MERCHANT: I just want to make one comment about what Mr. Friedman said a few minutes ago. I apologize for my head thing going on here. But he said that they answered every question that staff asked in the staff-assisted rate case. And we put out a letter and asked them to document the cost of the lease and what the Commission goes through, their standard practice to look at the reasonableness of a lease and the price of land, the same thing. It's kind of a similar analysis. And also the amount of the management fees, we asked questions about that. Staff even turned around and asked questions like that. We never saw any answers back for that. And there were a lot of questions that we did ask that we just don't feel that the company -- they made some response, but they didn't answer every single question. So I think that that was -- you know, for Mr. Friedman to come in and say, "We answered everything that was asked," I just didn't -- we didn't get that feeling. We thought for a long time while the case was deferred that the company was working on a response, but the response never came.

CHAIRMAN BROWN: Thank you. Okay. Thanks, Ms. Merchant.

MS. MERCHANT: Thank you very much.

CHAIRMAN BROWN: All right. I'm going to turn to staff at this point to respond to some of the comments that were addressed before we take it back to the bench and go through our process.

So Ms. Corbari, Mr. Vogel, which one?

MR. VOGEL: I'll start. Most of these are mine, so I'm going to start.

Number one, the royalty, Mr. Friedman actually mentioned that Town and Country, I believe is the name of the utility. In that case, they did approve a royalty, but it was really a royalty or a lease, not both. In the previous order, we included both costs as lease costs. I wasn't comfortable taking it out, considering it was in a past order. But staff does believe there shouldn't be a royalty for this company. If you're collecting a land lease, typically we don't also allow a royalty.

CHAIRMAN BROWN: You said that it shouldn't be included. I'm sorry.

MR. VOGEL: The royalty should not.

CHAIRMAN BROWN: Should not be. Okay. So that's $1,000, $1,200, or $1,300 that should be removed.

MR. VOGEL: It's $1,365.

CHAIRMAN BROWN: Okay. That should be removed.

MR. VOGEL: With that being said, on the land lease topic, we do believe that they should collect the land lease. The rent and property amount of $44,095 should be included.

Just some background, in that same case where they approved the royalty, they were going to approve a $30,000 land lease and instead they approved a $30,000 royalty payment. So they got the $30,000 based on $1,000 per well site for land, equipment, everything that goes into it. That's why staff believes that $1,000 per land lease per well was in some way reasonable. I would also note this only includes 25 well sites. It doesn't include all the well sites.

CHAIRMAN BROWN: Under the rent of buildings and property category?

MR. VOGEL: Yes, ma'am.

CHAIRMAN BROWN: Okay. What about the other three wells?

MR. VOGEL: They weren't included in the lease payments.

CHAIRMAN BROWN: Are they included anywhere else?

MR. VOGEL: I could not find evidence of them being included as payments for land leases, so.

CHAIRMAN BROWN: Okay. And is that rent of buildings and property the same amount that was approved in the previous case approved by the Commission?

MR. VOGEL: It was not. Well, there was never really a case. In the revenue requirement, they approved a lease cost of $22,000, and at the time they had 22 wells. There's actually 25 being included in this case, and every three years they include CPI increase. So we calculated the CPI increase and turned it around. And actually they're charging less than they should for those land leases -- don't tell them that -- but they're charging slightly less than they should be. Also, the rent of property and buildings includes office space rentals, and that's why --

CHAIRMAN BROWN: Uh-huh. How much office space?

MR. VOGEL: Around $15,000 per year.

CHAIRMAN BROWN: Okay.

MR. VOGEL: I'm not sure the size of the office space.

CHAIRMAN BROWN: And are other related Lykes

Bros. matters housed in that office space?

MR. VOGEL: I'm not 100 percent sure.

CHAIRMAN BROWN: Okay. Please continue.

MR. VOGEL: Okay. For -- so that concludes the land lease. As far as contractual services, management, testing and other on page 12 and 13, staff looks at -- I mean, I have a breakdown of all those categories. They have office support, management, they pay a truck lease, gasoline, insurance, they pay for Pew (phonetic) Services to come out every Saturday for a few hours.

CHAIRMAN BROWN: But is that included under other, the $37,000? What's included in the 42,000?

MR. VOGEL: The 42,000 is office support, management fees, and the truck. That includes the 42,000.

CHAIRMAN BROWN: Okay.

MR. VOGEL: And contractual services other, it includes Pew Services, maintenance, year-round maintenance, and small miscellaneous repairs.

CHAIRMAN BROWN: And proper documentation was submitted to corroborate those expenses?

MR. VOGEL: Yes. I know those expenses and I believe they're accurate, yes.

CHAIRMAN BROWN: Okay.

MR. VOGEL: Staff doesn't have a problem with the contractual services management, testing, or other. We believe that those are prudent. If -- to think about it, this utility sits on a piece of land five times the size of Tallahassee. For one person to responsibly manage that much land and that -- those -- that many wells, they have at least 25 wells that I know of that they're paying leases on, to manage that amount, you would have to have at least one-full time person and probably a part-time person. Total contractual services costs are just under $80,000 in this case. That seems reasonable to staff.

In other cases, if you need a full-time person, we're easily approving things of that magnitude. I think for this utility, this piece of land, it happens to be on a large piece of land. No one can help that there's only 62 customers. That's just how it works. If there's only 62 customers, they'll have to pay more for this utility.

CHAIRMAN BROWN: And, Mr. Vogel, what was the amount that was approved for contractual services back in 2008?

MR. VOGEL: In 2008, in the revenue requirement, they included $257,161. That was their 2008 contractual services. And they were on pace for that. They've decreased that by about threefold.

CHAIRMAN BROWN: Thank you.

Staff, any other comments?

MS. CORBARI: Staff would briefly respond to the utility concern that OPC makes. As OPC cited, 367.021(12), they are providing service, water service to the public for compensation, although -- just take the church, they're providing a donation that's not mandatory. They do not have to do that. They do not have to pay -- the Lykes Bros. don't have to pay their employees' utility bills. That could change. The utility has stated that it would provide the Commission with 60-day -- and their customers with 60 days' notice, including the employees, should that change.

As Matthew commented, it's not the utility's fault it has 61 customers. If there's another -- if another customer comes up, they're going to have to pay the utility's rates, particularly if they're not a Lykes employee.

And they are -- also included in the definition is "or proposing to," proposing to provide service. They are proposing to provide service in this development they're planning. The development has stalled, but I believe the utility has stated several times that development is still planned, when it becomes, I guess, economically feasible.

More importantly, this is not the proceeding to look at a certificate. If the Commission is going to review, suspend, amend, cancel, revoke a certificate, the Commission must provide 30 days' notice, and that is a separate proceeding. So staff does not believe that's a proper issue for this, for this docket.

CHAIRMAN BROWN: Yes, Mr. Vogel.

MR. VOGEL: I would also add, with OPC's concern number five, what happens if they begin bringing on more customers? We have -- they file annual reports on time every year. We've never had a problem with their annual reports. They're very accurate. From their 2015 annual report to what we're approving is around a $3,000 difference. They're very accurate. If they bring on new customers, overearnings will be seen, and we will bring them in and we will look at their bills and we will make sure that we can bring them in for another case and take that into account. So that's not really a concern for staff at this time.

MS. CORBARI: I apologize, Madam Chairman. I did have one more comment. With regard to precedent, every rate case is processed individually according to the utility's numbers. The numbers fell out the way the numbers fell out. If the Commission were to consider

OPC's suggestion that it be deferred, the utility provide additional documentation, and then only provide a 50 percent increase, there's concern from staff that that is not supported by the numbers and the Commission is setting rates not based on the way we set rates.

CHAIRMAN BROWN: Uh-huh.

MS. CORBARI: And any other utility pointing to this particular order, if the Commission so approves, and saying, "Oh, they approved a 398 percent increase," is going to have to have the numbers to back it up. And that's -- so staff does not believe this is an issue for precedent.

CHAIRMAN BROWN: Thank you. Well, obviously this is a very, very, very unique case that we've seen, one of the first of the kind that I've seen personally. But, Commissioners --

MR. FRIEDMAN: Madam Chair, may I make one observation?

CHAIRMAN BROWN: One second. We do have a Commissioner that has a question. I'd like to go to him first.

Commissioner Brisé.

COMMISSIONER BRISÉ: Thank you, Madam Chair. And just a question to staff, recognizing that this circumstance is different in that you have the exchange of compensation for these services, they're sort of internal in a loop, if the church -- if the company decided tomorrow that they were not going to provide services to the church, not services, but they were not going to provide the donation and they decided to then charge their employees, would we look at this case differently had it come in last week with those facts? That's where my concern is.

MS. CORBARI: Possibly. I'm not sure the accountants would as far as the numbers. You know, our accountants and economists are going to look at the numbers. How -- might have to get "Rates" to help me out with this one, is, you know, designing a creative rate structure, that gets into what, what we've done in the past, what we can do by statute and rule, and that's the concern. I don't know. Does "Rates" want to answer?

MS. BRUCE: Commissioner, the answer to your question -- I'm going to make sure I understand what your question was. You're asking would we look at it differently if the church paid?

COMMISSIONER BRISÉ: If -- well, let me sort of back up.

MS. BRUCE: I want to understand.

COMMISSIONER BRISÉ: If we had customers that were actually paying this from the public, would -- I know the numbers are what they are.

MS. BRUCE: Uh-huh.

COMMISSIONER BRISÉ: But considering the percentage of the increase, would staff have looked at it differently in terms of the rate design and whatever else?

MS. BRUCE: If the customers paid their bills, we would have designed a more conservative-oriented rate structure. But because they don't, there's no sense in us doing it because they won't respond to any changes in price. But if they were paying, yes, we would have considered a more conservative rate structure.

MR. HILL: I'd like to add something real quick. Part of how we deal with a customer base that does not grow to the size that it was anticipated is through used and useful, and there was a used and useful adjustment in this case. The problem with this particular system is so many of these systems, there are 26 systems with -- all but two of those are on a single well, and by rule we automatically allowed those systems as 100 percent. And so there are adjustments for those two systems that are at less than their capacity; however, by the way that, you know, our rules are set up, our -- we presented those 24 single well systems as

100 percent used and useful. And so from that regard, that's one of the ways that we do try and make sure that customers aren't paying for unused capacity. And in this case, that's how it worked out.

COMMISSIONER BRISÉ: So if we had live people who were paying with their dollars, would we not have looked at the used and useful a little bit closer to see if we can make adjustments? Because my concern is this: If the company decides that it doesn't want to be as benevolent anymore, right, in the next couple of months, then these customers are going to be paying, if the number is right, around 5,000 gallons per individual household or whatever, $182 per month for water. And I'm assuming, and I may be incorrect in my assumption, I'm assuming that the individuals who are working in these places aren't receiving income that could truly afford $182 a month worth of water when you consider a portion of what they're earning. So my -- that's what my concern is with where we are right now.

And so I would have liked that we take the most conservative approach to this because it sounds to me that because we have an internal loop of dollars, that, you know, it's, well, we'll -- if they have -- if by rule they can access this amount, then we'll give them that amount versus, look, let's be as conservative as possible, considering that there might be the possibility that customers may have to pay with their own money.

MR. HILL: Certainly. And I would say that staff did respond to one of OPC's letters that did bring up the used and useful amounts, and staff did find a more conservative way to calculate the combination of all these 26 systems. You know, the 24 that are 100 percent, we really -- our hands are tied on that. For how to do a weighted average to account for those two that are not, we did find a more conservative way to calculate it, and that did reduce the used and useful. So that is -- staff does believe that in that aspect we are being as conservative as we could as if there were actual paying customers.

MS. CORBARI: And, Commissioner, to follow up, even if everything was done as conservatively as possible, there was a conservation rate structure imposed, you're -- even with the conservation rates, you're still -- we're still at this increase. Taking a bunch of things out I believe only decreases the amount a negligible amount.

CHAIRMAN BROWN: Mr. Cicchetti.

MR. CICCHETTI: Good morning, Madam Chair, Commissioners. I think the overriding concern is the statute requires compensatory rates. What's been done in other industries, for example, in electric industries when large nuclear power plants come online, there are ways to defer rate increases and keep the company whole at the same time. Based on the unique situation here, we did not spend time considering those types of things. But that's how it would normally be treated.

And if the situation occurred where they did start charging rates, we would put our heads together and come up with some way that would be fair, that would meet the statute, but that would allow for compensatory rates, and minimize the impact immediately.

CHAIRMAN BROWN: And I think Commissioner Brisé is getting to a very good point, and this is, you know, a very interesting situation for ratemaking. And Office of Public Counsel raises very valid points. Every point they raise is valid. And it could be a completely different analysis if the church wasn't here, if there were other customers, if the development that they originally -- when they got certification actually came to fruition. All of those factors would have changed the ultimate analysis.

So we're in a predicament where we're dealing with a traditional ratemaking structure with a very unique situation. And my worry is what happens when new customers come online or if the utility sells its company to someone else or a different development? And I'm curious about the plans that Lykes Bros. has and their intentions moving forward. That is a question.

MR. FRIEDMAN: Okay. Thank you. First of all, the utility has had an opportunity -- somebody has approached them about buying the utility and they're not interested. I mean, that's not in the cards. Whether it will happen ever, I mean, gosh, nobody could say that. But I'll certainly tell you this, that they have no plans in the foreseeable future to do that. That's just not the way the Lykes companies work.

Secondly, you know, they've had a long-term commitment to providing the water for, and utilities for those employees of theirs, been doing it forever, and they almost have to do it no matter what the water rate is in order to get employees, good employees to work at these remote locations. It's just the way it is.

The -- and I think they will continue to do that, you know, even when the utility grows and the rates, you know, come down because of economies of scale. These two developments that have been approved, when they come along, that's not going to change the way Lykes Bros. deals with its employees. It will likely stay the same as it has been for in ad infinitum.

The second issue I would -- and this may be interesting, I mean, because it will result in less revenue, but when you consider the lease versus royalty, you know, kind of you can't have both of them, I think is what the staff is saying. When you look at the Town and Country case where they had a lease and they converted it to a royalty, I think the precedence in this case would probably be more appropriate for the royalty in lieu of the lease. Even though that will be a substantial reduction in revenue, I think to be consistent in ratemaking, that that's probably the more appropriate way to go. And like I say, the difference is substantial. It's twenty something thousand -- I would guess twenty something thousand dollars difference. But if we're setting something for the future and setting a precedence, then I think that's the more appropriate way -- and the company believes that's the more appropriate way to handle the lease versus royalty issue.

CHAIRMAN BROWN: So to confirm and to clarify then, the royalties listed under purchased water expense of 1,364, but then the rent of the building and the property is -- and that includes also the --

MR. FRIEDMAN: But you'd still have the rent of the building. I'm talking about just renting the well sites themselves.

CHAIRMAN BROWN: The $1,000 per well.

MR. FRIEDMAN: Correct. Right. Yeah. I mean, they'd still need the building and, you know, they'd still need that, what, $15,000 or whatever it is. But I'm talking about the well sites themselves because I think that's what the Town and Country case and the other one, maybe Florida Cities, whichever one counsel mentioned, are doing is looking at leased versus a royalty.

CHAIRMAN BROWN: Okay. Thank you.

MR. FRIEDMAN: And the Town and Country did a royalty in lieu of a lease, and so I think that is probably a more appropriate ratemaking way to handle this.

CHAIRMAN BROWN: Thank you. But really getting to the question that I had, Mr. Handley, is what are the intentions of the company moving forward?

MR. HANDLEY: The intentions of the company moving forward, this utility was set up for future planning, making sure that those services were available in the event that development comes our way. We were anticipating development when the utility was set up. We're still anticipating it, just at a different pace. The commitment to the employees hasn't changed from the beginning, nor has it changed -- I mean, it's a

100-year-old company. To get quality employees in the locations that we have to, we have to offer things that most other entities may not consider offering. We offer housing, and with that housing offer water services, and that -- there's no plans to change that at all.

CHAIRMAN BROWN: Okay. Thank you. And pardon me. I should have gone to Commissioner Graham right away, but Commissioner Graham.

COMMISSIONER GRAHAM: Thank you, Madam Chair.

Staff, the utility has already committed that if they're going to make a change to what they're currently doing, that they're going to give you 60 days' notice. If they came to you tomorrow, is 60 days enough time to make changes to start doing things more conservatively so there wouldn't be any sort of rate shock here, or would you need more time?

MS. CORBARI: Well, just by a notification -- because if the Commission were to approve rates and the rates became final, a notification wouldn't allow staff to then reopen and make changes.

The Commission certainly can require them to notify us and even provide annual updates on the development. I would -- I believe that they would have to file an actual rate case -- another rate case in order to change the rates.

CHAIRMAN BROWN: Yes.

MR. CICCHETTI: (Microphone not on) -- enough time for us to be able to place money, to get proceedings started, and place money subject to refund, and then deal with the nuts and bolts.

COMMISSIONER GRAHAM: So 65 days -- I'm sorry, 60 days is enough to make sure that the sky doesn't fall and things don't go crazy?

MR. CICCHETTI: Yes.

COMMISSIONER GRAHAM: I'm just -- I don't have a problem with the recommendation. I'm just hearing some of the concerns that my fellow Commissioners have, and I just want to make sure there's enough stopgaps in there that if something does happen, and if we needed 120 days, if we needed more, that would be a different story. But if 60 days is enough for you to make sure things don't start to go crazy, I don't have a problem with that. I understand where the utilities are now. I understand if, you know, if development comes in and somebody wants to build a whole bunch of houses out there, they're going to have to put new equipment in there, they're going to have to put more water and wastewater systems in there, then they'll have to come back before us if they want to put all that in rate base. Or if they don't and they figure out they can do it with higher rates, then there's going to be overearnings coming through, and so, therefore, that's going to come back before us and we can actually force them to return some of that extra money as well.

So, I mean, there's a stopgap to make things -- make sure things don't go crazy. The contractual services said it went from, what was it, $257,000 in '08 and now it's down to like $84,000. I mean, so things are moving in the right direction. I don't see a problem not to move forward with this.

Now the question about the royalties or not, I'm subject to whatever, whatever staff or my colleagues want to do with that, but I think we need to move forward.

CHAIRMAN BROWN: Okay. Thank you, Commissioner Graham.

And we do need to get to that discussion about the royalties and the suggestion by Mr. Friedman consistent with the previous case that was cited. Could you provide some advice on that?

MR. VOGEL: Sure. The land lease currently is at $28,303. That's what they're charging. The royalties are at $1,365. The difference, if they would like to get rid of the land lease in lieu of the royalties, would be a decrease of $26,938. Off the top of my head -- oh, actually I have those numbers. It's 334.33 percent increase. So it will move from a 398.55 to a 334.33. So a significant decrease.

CHAIRMAN BROWN: Thank you.

All right. Mr. Baez, any comments?

MR. BAEZ: Madam Chairman, just -- I'm sensing that some of the Commissioners have -- I think a lot of good questions got answered, and your concern, I sense your concern for the company changing its mind on the, what the status quo is now. And I think Commissioner Graham seemed to be going that way. He seemed to be thinking what I was thinking. Mr. Cicchetti, I think, tried to assure you that we have the ability to deal with any changes in circumstances, given sufficient time.

The simple act of being added to the list of people that get noticed should any changes that are contemplated, that would give us enough time to -- I'm not saying we're going to do one thing or not do another, but just to be able to have the opportunity to know, to be able to decide if there's anything that needs to be done. So the simple requirement that we receive the same 60-day notification in case there's any change in circumstances, if that's not -- if that's not a problem for the company, I think that might -- I think that might allay some of Commissioner Brisé's concerns and everybody else's that the status quo doesn't change without us knowing about it.

CHAIRMAN BROWN: No, I think that's a fine point. And, you know, I was thinking about the potential to defer. But, you know, I do believe we can move forward with this item, if it's all fine, acceptable with the other Commissioners.

So the way I'd like to do it, if we could just go through the quick issues and then get to the meat of it, which is Issues 6 and 7. So, Commissioners, if that is acceptable to you all, Issues 1, 2, and 3, are there any questions on those issues? If not then, I'm ripe to take a motion on those items.

COMMISSIONER EDGAR: Move staff on Issues 1 through 3.

CHAIRMAN BROWN: Thank you. Is there a second?

COMMISSIONER PATRONIS: Second.

CHAIRMAN BROWN: All those in favor, say aye.

(Vote taken.)

All right. The motion passes.

Now Issue 4, I just have a question about this issue for our fine economists and accountants here. It's something that kind of jumped out at me with an ROE at

10.58 percent. And knowing Lykes Bros. and having the ability to get capital at a very fine cost, I'm curious, you know, with this utility how staff typed in those numbers and ultimately, given the facts and circumstances surrounding the parent company who is financing and funding this water utility, how you got to a 10.58 percent return on equity, when I believe the risk is, that this utility is taking on is pretty low.

MR. VOGEL: Staff uses the leverage formula which is approved every year. In this case, we used a leverage formula, and I believe we spoke in the briefing that with the consistent losses -- in 2008, their first annual report recorded losses of over 330,000. Since that time, the losses have gotten smaller as O&M expenses have decreased. To use the actual numbers to calculate an ROE not using the leverage formula, the percentage would probably be much higher. With those losses, you would need a much larger return to invest in a company. It just so happens that the Lykes Bros. are willing to invest because they need these assets in the water for their employees, for their citrus, and their ranch divisions. If staff were to do their own ROE analysis, it would probably be much higher. And also you have to take into account that their cost of debt in this case is 3 percent, which is extremely low for most

SARCs, especially just really in general, cost of debt at 3 percent is extremely low.

CHAIRMAN BROWN: And typically, I mean, we're not married to the leverage formula in setting the ROE. But given the fact that we don't have additional testimony or any analysis to really get into the numbers better, given the facts and circumstances surrounding, that is ultimately the recommendation you came up with.

MR. VOGEL: That is correct.

CHAIRMAN BROWN: All right. I just wanted that discussion. I don't feel very comfortable with it, but I will support the Commissioners' will. So with that, is there any further discussion or a motion on that item?

COMMISSIONER EDGAR: Madam Chair, I would move staff recommendation on Issue 4.

CHAIRMAN BROWN: Thank you. Is there a second?

COMMISSIONER PATRONIS: Second.

CHAIRMAN BROWN: All those in favor, say aye.

(Vote taken.)

Opposed?

The motion passes.

Issue 5, we could have probably done those together, so can I get a motion on Issue 5?

COMMISSIONER EDGAR: Move staff.

COMMISSIONER PATRONIS: Second.

CHAIRMAN BROWN: All those in favor, say aye.

(Vote taken.)

All right. Issue 6, we have to tackle the royalties and the rent issue, if the Commissioners would like to, and any other issues that you see. So I'm going to open up the floor to the Commissioners, if they have suggestions on how to do that. I think we heard from staff earlier that they could -- they recommended potentially removing the royalties, and then we heard from Mr. Friedman to remove the rent on the wells and just approve the royalties. So with that, I just wanted to summarize the discussions that occurred.

Commissioner Graham.

COMMISSIONER GRAHAM: Thank you, Madam Chair. If I -- I'd have to refer to staff for a suggestion. You've heard your suggestion and then you heard from the utility. Give us some verbiage on your suggestion on how to handle this.

MS. CORBARI: Well, as far as the staff's recommendation on that, I might let Matthew speak to that.

MR. VOGEL: Staff would be okay with removing the land lease instead of the royalty. Staff would approve the royalty and not approve the land lease amount of $28,303.

MS. CORBARI: And then my comment would be that should the Commission approve that, that staff be permitted administrative authority to revise the numbers and rates based on what the Commission approves.

CHAIRMAN BROWN: Excellent.

COMMISSIONER GRAHAM: You said $28,303? I thought you said 26,000 earlier.

CHAIRMAN BROWN: That's what I thought, 26,938.

MR. VOGEL: Well, the difference between the two is 26,000. The land lease amount was 28,303. So we would be removing that.

CHAIRMAN BROWN: Okay. Commissioner Graham.

COMMISSIONER GRAHAM: Mr. Friedman, comment?

MR. FRIEDMAN: No. That was -- I mean, those are the numbers and that's what the company believes is the more appropriate way to handle the royalties.

COMMISSIONER GRAHAM: Got to teach you attorneys, just yes.

MR. FRIEDMAN: Yes.

COMMISSIONER GRAHAM: Thank you.

CHAIRMAN BROWN: Public Counsel.

MS. MERCHANT: Yes, Commissioners. The only concern we have -- certainly we're going to take the lower number historically, but we still have issues with the amount of the royalty. And the royalty -- the Commission has, in the Florida Cities case they went through a big analysis of what was the reasonable amount for a royalty fee, which there's been no analysis done in this case. So, you know, for lowering the rate increase from 400 percent to 340 percent, I think that's reasonable, but we still have concerns that the royalty has not been vetted by a reasonable and prudent analysis of what's the appropriate cost for any royalty that they've done in the Town and Country case and in the Florida Cities case.

MR. VOGEL: Staff would just like to comment on that Town and Country case. The land leases were supposed to be 30,000 in that case. The only analysis done to obtain the royalty amount was to equal that $30,000. So in this case, if we were to go back and redo the royalties, I would recommend the royalties somehow equal $28,303. That's what we've done in the past, and I don't think that's reasonable. I think the royalties as they are now are acceptable. And when they expand, if they expand, those royalties will increase with the expansion, and I think that's how this should happen.

CHAIRMAN BROWN: Okay. Let's just summarize all that, your recommendation to Commissioner Graham, your original recommendation.

MR. VOGEL: Yes. Staff recommends that land leases be excluded from the revenue requirement in a total of $28,303.

COMMISSIONER GRAHAM: So moved.

CHAIRMAN BROWN: Okay. Is there a second?

COMMISSIONER BRISÉ: Second.

CHAIRMAN BROWN: Is there any further discussion or any other comments on Issue 6 before we vote on that recommendation? Anyone?

All right. All those in favor, say aye.

(Vote taken.)

All right. The motion passes. Thank you.

MS. CORBARI: And that allows staff to --

CHAIRMAN BROWN: Yes.

MS. CORBARI: -- to revise the numbers. Thank you.

CHAIRMAN BROWN: All right. Thank you.

Now we are on to the remaining items, 7 through 14. And does anybody have any questions on 7 through 14 or discussion on those items?

Commissioner Graham.

COMMISSIONER GRAHAM: I was going to say if nobody wants to question any of those remaining items, I was going to move staff recommendation on Items 7 through 14, giving staff full ability to adjust numbers as they need to.

CHAIRMAN BROWN: Thank you. And is there a second?

COMMISSIONER BRISÉ: Second.

CHAIRMAN BROWN: Okay. I know we're moving pretty swiftly, so I want to give --

MS. CORBARI: Madam Chair, staff just would like to clarify the close docket issue.

CHAIRMAN BROWN: Yes.

MS. CORBARI: Did that -- did the Commission want to require the utility to provide notice of any changes in compensation and development plans of 60 days, to include that in the --

COMMISSIONER GRAHAM: Yes. Yes.

MS. CORBARI: Okay. I just wanted to make sure.

CHAIRMAN BROWN: Please make that adjustment. And the second, whoever made the second agrees?

All right. So that is the motion with the proper second. We are moving swiftly, so I want to give Commissioners an opportunity to discuss any further points.

COMMISSIONER GRAHAM: Question.

CHAIRMAN BROWN: Yes, sir.

COMMISSIONER GRAHAM: So I just want to make sure from staff that we are comfortable with the 60 days, that we can handle it all. Staff is nodding their head yes. Okay. Well, then, yes, that's my motion.

CHAIRMAN BROWN: All right. I don't see any other lights, so thank you. With the proper motion and second on the floor, all those in favor on Issues 7 through 14, with the modifications provided in this discussion, say aye.

(Vote taken.)

All right. The motion passes. Thank you so much. Thank you for your participation, all parties. Thank you.

This concludes the Agenda Conference.

(Commission Conference adjourned at 11:09 a.m.)

STATE OF FLORIDA)
: CERTIFICATE OF REPORTER
COUNTY OF LEON)

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

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

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.

DATED THIS 16th day of August, 2016.

Linda Boles

LINDA BOLES, CRR, RPR
FPSC Official Hearings Reporter
(850) 413-6734