

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 130105-WS

APPLICATION FOR CERTIFICATES
TO PROVIDE WATER AND
WASTEWATER SERVICE IN HENDRY
AND COLLIER COUNTIES, BY
CONSOLIDATED SERVICES OF
HENDRY & COLLIER, LLC.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 4

COMMISSIONERS
PARTICIPATING: CHAIRMAN JULIE I. BROWN
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER JIMMY PATRONIS
COMMISSIONER DONALD J. POLMANN

DATE: Tuesday, March 7, 2017

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

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2 **CHAIRMAN BROWN:** All right. Moving on to
3 Item 4.

4 **MS. KNOBLAUCH:** Good morning. Emily Knoblauch
5 for staff.

6 Commissioners, Item 4 is staff's
7 recommendation for the initial water and wastewater
8 rates and charges for Consolidated Services of Hendry &
9 Collier, LLC, in Hendry County. The Commission granted
10 the utility's request for an original certificate at its
11 September 25th, 2013, agenda and waived certain rules
12 pertaining primarily to rate settings for 36 months.
13 Staff recommends that the Commission should approve the
14 recommended rates and charges.

15 Ms. Tricia Merchant and Ms. Stephanie Morse
16 are here on behalf of the Office of Public Counsel, and
17 I believe they want to make a few comments. And
18 Mr. John Wharton, Mr. Dan Delisi, and Mr. Mitch
19 Hutchcraft are here on behalf of the utility to answer
20 any questions. Staff is also available to answer any
21 questions.

22 **CHAIRMAN BROWN:** Thank you. It looks like
23 Public Counsel -- Ms. Morse -- not -- I see
24 Mr. Rehwinkel.

25 **MR. REHWINKEL:** This is Charles Rehwinkel from

1 the Office of Public Counsel, and I've been nominated to
2 provide these comments.

3 First of all, what I want to state upfront is
4 the result that's in the staff recommendation is not
5 something we take issue with. I was here at the last
6 agenda, and I made a policy comment on behalf of the
7 office about --

8 **CHAIRMAN BROWN:** You did.

9 **MR. REHWINKEL:** -- rulemaking.

10 **CHAIRMAN BROWN:** I remember it.

11 **MR. REHWINKEL:** And today there is an issue --
12 I believe your staff has handled it appropriately, but
13 an issue has arisen about the appropriateness of a lease
14 payment in the form of a lease payment or a royalty
15 payment.

16 **CHAIRMAN BROWN:** Uh-huh.

17 **MR. REHWINKEL:** And there has been a citation
18 to Commission practice. The *Silver Lake* case is cited,
19 but it's certainly not the only one. We are here again
20 to say that if a practice is cited for purposes of
21 establishing rates, that we think it ought to be in a
22 rule.

23 We support and agree with the staff's approach
24 to rate setting in this case, is that the utility asked
25 for a royalty payment and a lease payment and the staff

1 said it's one or the other. And they chose the lease,
2 which we think is the appropriate one.

3 I wanted to put the Commission on notice that
4 we believe that even though a royalty payment is not
5 being recommended in this case, to the extent it is part
6 of a Commission practice, we have a severe concern about
7 a royalty payment being the basis for cost of service.
8 The royalty payments that we have seen in the past are
9 not cost based. They are often the result of an
10 affiliate transaction. And if an affiliate landowner
11 and a utility agree among themselves on a royalty
12 payment and there's no cost basis for it, essentially
13 they are setting a major component of the cost of water
14 because it's a volumetric royalty payment based on the
15 amount of withdrawals out of the land.

16 So in the future, we are asking that this case
17 not be deemed to be part of this practice. We would ask
18 that the practice instead be addressed in a generic
19 proceeding or a rulemaking.

20 When this case -- this is an original
21 certificate case. When it comes back in for a rate
22 case, we would ask that this not be considered precedent
23 and that the utility -- well, we just -- we would just
24 ask that of the Commission. That is our request. It's
25 a matter of policy, not a matter of the result in this

1 case.

2 **CHAIRMAN BROWN:** Okay. So, Mr. Rehwinkel, my
3 understanding is you don't object to the staff
4 recommendation with regard to agreeing to the land lease
5 cost versus the royalties. Your objection is to
6 consideration of royalties just in general, regardless
7 of whether we considered land lease versus royalties.

8 **MR. REHWINKEL:** That is correct. And I had
9 come to object to the land lease itself, but your staff
10 informed me that the company provided a market basis for
11 the land lease. So to the extent that is correct, we
12 are okay with that.

13 We think the standard should be what the cost
14 of the land was at the time devoted -- that the -- was
15 devoted to utility service, and so we're not raising an
16 issue about that.

17 **CHAIRMAN BROWN:** Do you intend on providing
18 written comments?

19 **MR. REHWINKEL:** What's that? I can do that.
20 In fact -- but I am not asking that this case be
21 stopped, that you take any other action. But we wanted
22 to use this opportunity to put the Commission on notice
23 that in the future when this issue arises, we will be
24 taking a close look at it. We have written letters in
25 the *Silver Lake* case and in this case, and we appreciate

1 you and your staff's recognition of that.

2 **CHAIRMAN BROWN:** Mr. Rehwinkel, I appreciate
3 your comments and absolutely look forward to any written
4 comments that kind of elaborate on your concerns
5 regarding the royalties issue.

6 **MR. REHWINKEL:** We will do that in a letter.
7 Thank you, Madam Chairman. Thank you, Commissioners.

8 **CHAIRMAN BROWN:** Thank you.
9 Staff, legal, any comments or anything before
10 I get to the bench?

11 **MS. HELTON:** We've heard his comments, and we
12 will have further discussions with Mr. Rehwinkel and OPC
13 concerning their concerns.

14 **CHAIRMAN BROWN:** Okay. Thank you. Let's go
15 back to the actual case here.

16 Commissioners, any questions with this Item 4?
17 And if we don't, then we are ripe for a motion.

18 Seeing none, go for it.

19 Oh, Mr. -- Commissioner Graham.

20 **COMMISSIONER GRAHAM:** I want to go back to
21 Mr. Rehwinkel's request. Assuming we pass this, is
22 there anything that we need to do to make -- to, I
23 guess, kind of codify what he was asking, or -- I mean,
24 I understand what he's saying. I understand the points
25 he's trying to get to. He doesn't want for this to set

1 any kind of precedent. And is there anything that we
2 need to do now or are we -- we just took it as
3 information and we're moving forward?

4 **MS. HELTON:** I took Mr. Rehwinkel's comments
5 as being that he's okay with what we're doing today. I
6 heard him say that he was concerned about precedent in
7 the future, and we acknowledge that. And we will look
8 at our practice and see what, if any, changes need to be
9 made so that you can be comfortable with your decision
10 and so that he can be comfortable with how the
11 Commission is going forward.

12 **COMMISSIONER GRAHAM:** Okay. Well, then I move
13 staff recommendation on this issue.

14 **CHAIRMAN BROWN:** Thank you. Is there a
15 second?

16 **COMMISSIONER BRISÉ:** Second.

17 **CHAIRMAN BROWN:** Further discussion?

18 Quick question on *Silver Lake*. Is that a
19 final order?

20 **MS. HELTON:** I was looking. I'm assuming it's
21 final at this point. Whether it was done as a PAA or
22 not, I'm not sure.

23 **MR. REHWINKEL:** It was done in September.
24 It's final.

25 **CHAIRMAN BROWN:** It's final? Okay. Thank

1 you.

2 Any further discussion or questions? All
3 those in favor, say aye.

4 (Vote taken.)

5 The motion passes. Thank you.

6 **MR. REHWINKEL:** Thanks for your indulgence.

7 Thank you.

8 **CHAIRMAN BROWN:** Sure.

9 (Agenda item concluded.)

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

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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,
15 nor 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 14th day of March, 2017.

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