

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: December 22, 2017

TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk

FROM: Jennifer S. Crawford, Attorney Supervisor, Office of the General Counsel *JSC*

RE: Docket No. 20610101-WS - Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.

Please place the attached e-mail to Frank Maranto, President, Cross Creek Community Association, from Keith Hetrick, General Counsel, in the above-referenced docket file.

JSC/csc
Attachment

Jennifer Crawford

From: Keith Hetrick
Sent: Tuesday, December 12, 2017 4:42 PM
To: 'Frank'
Cc: Office of Commissioner Brown; Office Of Commissioner Graham; Office of Commissioner Brisé; Office of Commissioner Polmann; Office Of Commissioner Clark; Rick.scott@eog.myflorida.com; Carlotta Stauffer; Mary Anne Helton; Jennifer Crawford
Subject: RE: Complaint against Florida Public Service Commission

Thank you Mr. Maranto for your reply and your time and effort in raising important questions and expressing your concerns. Again, after a lengthy hearing in this matter in which the Commission considered all of the evidence, including a review of the public comments, the evidence presented at the public hearing held on May 8-10, 2017, and the parties' legal briefs regarding rate structure, the Commission rendered its decision in this case in the form of a Final Order. The Final Order, as noted below, includes the Commission's rate structure rationale. We do understand your contention but respectfully disagree with your conclusion under the law.

In fact, the Commission does not have jurisdiction over the case at this time inasmuch as its final decision has been appealed to the 1st District Court of Appeal by the Office of Public Counsel and Seminole County. Seminole County has indeed challenged the rate structure. So the case currently resides at the 1st DCA awaiting disposition. As noted below, it might be useful to monitor the case at the 1st DCA where you can review arguments in the case raised by all of the parties in briefs that they file. No doubt this is a complex case with a large record going up on appeal, nearly 200,000 pages of information. For your information, the first round of briefs by the appellants (OPC and Seminole County) are due Dec. 29, 2017. However, the parties could ask the Court for an extension of time. If you have any further questions, please do not hesitate to contact me.

Best regards,

Keith Hetrick
General Counsel
Florida Public Service Commission
850-413-6189
khetrick@psc.state.fl.us

From: Frank [mailto:xcreek@comcast.net]
Sent: Saturday, December 09, 2017 12:54 PM
To: Mary Anne Helton
Cc: Office of Commissioner Brown; Office Of Commissioner Graham; Office of Commissioner Brisé; Office of Commissioner Polmann; Office Of Commissioner Clark; Keith Hetrick; Rick.scott@eog.myflorida.com; Carlotta Stauffer
Subject: RE: Complaint against Florida Public Service Commission

Ms. Helton:

Thank you for the information provided and I have once again reviewed the documents and calculations. On page 204 of the Docket, it is stated:

We are charged with setting rates that are just, reasonable, compensatory, and not unfairly discriminatory, considering the value, quality, and cost of the service pursuant to § 367.081(2)(a)1, F.S. The traditional wastewater rate structure set by us consists of a BF

Our contention is that the rates for Cross Creek, as well as for other lower volume customers, are in fact "unfairly discriminatory". Our understanding is that consumption statistics may actually be available for most if not all customers and it has been suggested to us by UIF that the utility company itself is able to measure the actual gallonage demand of our own community. Nevertheless, even accepting the estimates provided for all flat rate customers and the average calculated consumption of 5,000 gallons from the UIF-Calculation below that were sent, is the rate structure not obviously discriminatory? Is it not true that all customers are being charged as if they had 5,000 gallons of demand? For Eagle Ridge (the Cross Creek customers), the average residential demand is stated as 2,489 gallons, but the flat rate of \$45.60 we are being charged is based on an assumed demand of 5,000 gallons. Are we not paying for more than 2 times our demand, while higher volume users demanding more than 5,000 gallons are paying for less gallons than are being used? Is that not discriminatory and did it not contribute towards our own fees to UIF being raised by over 71%?

Sincerely,

Frank Maranto, President, Cross Creek Community Association.

Calculation of Uniform Wastewater Flat Rate for all UIF Customers

The methodology for computing a consolidated flat rate for wastewater service for those customers currently billed on a flat-rate basis was to first determine the average water consumption for that subset of UIF customers. Only the usage of flat-rate customers of the systems identified in the table was included in the calculation. That calculation appears in the table below.

Docket No. 20160101-WS

In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida

Test Year Gallons and Bills for UIF Systems with a Residential Flat Rate

System Name	Total Residential Gallons (Flat Rate Customers Only)	Total Residential Bills (Flat Rate Customers Only)	Average Residential Flat Rate Demand Per Customer
Eagle Ridge	27,031,000	10,860	2,489
Tierra Verde	71,909,000	11,318	6,354
Mid County	63,000	22	2,864
UIF-Pasco Orangewood	69,000	36	1,917
Longwood	114,462,000	18,639	6,141
Lake Placid	59,000	36	1,639
Sanlando	26,601,216	7,296	3,646
Total	240,194,216	48,207	240,194,216/48,207 = 4,982 ~ 5,000 gallons

The average of 4,982 gallons per month was rounded to 5,000 gallons since rates are typically billed in 1,000 gallon increments. Once the average consumption for all UIF flat-rate customers was determined, the consolidated usage-based wastewater rate was applied. Thus, the flat rate consists of a Base Facility Charge component and a usage component base on 5,000 gallons per month consumption. This resulted in a flat rate of \$45.60. Cross Creek HOA, which is served by the Eagle Ridge system, has 905 customers. Therefore, the flat for Cross Creek HOA was calculated to be \$41,268 ($\45.60×905).

From: Mary Anne Helton [mailto:MHelton@PSC.STATE.FL.US]

Sent: Friday, December 8, 2017 5:06 PM

To: 'xcreek@comcast.net'

Cc: Office of Commissioner Brown; Office Of Commissioner Graham; Office of Commissioner Brisé; Office of Commissioner Polmann; Office Of Commissioner Clark; Keith Hetrick; 'Rick.scott@eog.myflorida.com'; Carlotta Stauffer

Subject: RE: Complaint against Florida Public Service Commission

Dear Mr. Maranto,

Please see the response below to you from the Florida Public Service Commission's General Counsel, Keith Hetrick.

Sincerely,

Mary Anne Helton

Deputy General Counsel
Florida Public Service Commission
mhelton@psc.state.fl.us
850.413.6096

Dear Mr. Maranto,

I am writing in response to the e-mail you submitted on December 7, 2017, to the Offices of Commissioners Brown, Graham, Brisé, Polmann, and Clark, in which you ask for a justification of the wastewater rates which were approved with respect to your community by Order No. PSC-2017-0361-FOF-WS, issued September 25, 2017, in Docket No. 20160101-WS, In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.

As part of its mandate to set rates that are fair, compensatory, and in the public interest, the Commission held eight customer service hearings throughout UIF's service territory, with a ninth in Tallahassee prior to the technical hearing. At the technical hearing, witnesses for the utility as well as parties such as the Office of Public Counsel presented evidence regarding the rates to be approved by the Commission. The Final Order sets out the Commission's factual findings and legal conclusions based on the Commission's review of the public comments, the evidence presented at the public hearing held on May 8-10, 2017, and the parties' legal briefs. The Commission's rationale for continuing a flat rate for the Cross Creek wastewater customers, using an average demand of 5,000 gallons, is discussed at pages 204-207 of the Order (see pages 204-207 attached for your convenience; the Order may be reviewed in full at <http://www.floridapsc.com/library/filings/2017/07894-2017/07894-2017.pdf>). While the Order speaks for itself, also attached is information that may help further address your question concerning the calculation.

On September 27, 2017, you made a public records request with the Commission, requesting "[a]ny and all documentation and/or information relating to the staff sources of data, surveys undertaken, studies conducted, formula used, etc. which allowed the conclusion that 5,000 gallons per month was a reasonable assumption for our community (Cross Creek)." Your request was promptly acknowledged and you were provided with an estimated response date of October 11, 2017. However, responsive records were provided to you two days after your request, on September 29, 2017. These records consisted of the evidence utilized by staff to derive UIF's residential wastewater flat rate. In addition, the Commission Clerk's response provided the pages of the post-hearing recommendation and order where the issue was addressed. The items previously provided include:

- E2-E3, F2-F6 of UIF's MFRs Volume I for the following systems: Eagle Ridge, Tierra Verde, Mid County, UIF-Pasco Orangewood, Longwood, Lake Placid, and Sanlando
- EXH 29 (UIF Witness Guastella's Direct Testimony- Sewer Rate Design)
- EXH 143 BSP 134-35 (UIF's Response to Staff's 1st ROGs (Nos. 75, 76))
- EXH 150 BSP 179 (UIF's Response to Staff's 5th ROGs (Nos. 142, 143))
- EXH 157 BSP 217 (UIF's Response to Staff's 8th ROGs (Nos. 185, 186))
- EXH 168 BSP 286-87 (UIF's Response to Staff's 14th ROGs (Nos. 265, 266))
- TR 980 & 992 (Staff Witness Daniel's Direct Testimony)
- Issue 65 of Staff's Recommendation (pages 272-276)
- Order No. PSC-2017-0361-FOF-WS (pages 203-206)

Finally, I note that the Commission Clerk's response to the records request was made via email and included access to the docket so the records were free of cost.

While you may not be satisfied with the Commission's rationale for setting the rate for the Cross Creek wastewater customers, the information was promptly provided to you upon your request. I note that Seminole County and the Office of Public Counsel have asked the First District Court of Appeal to review the Commission's order. The First District Court of Appeal has assigned Case Number 1D17-4438 to Seminole County's appeal and Case Number 1D17-4425 to the Office of Public Counsel's appeal. The First District Court of Appeal's website is <http://www.1dca.org/>, if you wish to monitor the appeals. You may also wish to contact the Office of Public Counsel concerning the issues it is pursuing on appeal.

Because of the litigation pending before the First District Court of Appeal, the Commissioners are not able to separately respond to you. I hope, however, that the information I have provided addresses your request to the Commissioners. Thank you for your interest in this matter.

Sincerely,
Keith Hetrick
General Counsel
Florida Public Service Commission

From: Frank [<mailto:xcreek@comcast.net>]
Sent: Thursday, December 07, 2017 4:07 PM
To: Office of Commissioner Brown; Office of Commissioner Polmann;
Office Of Commissioner Graham; Office of Commissioner Brisé; Office Of
Commissioner Clark
Cc: Rick.scott@eog.myflorida.com
Subject: Complaint against Florida Public Service Commission

To: Directors of the Florida Public Service Commission
(PSC) Date: 12/7/2017
CC: The Honorable Rick Scott

From: Frank Maranto, President, Cross Creek of Fort Myers
Community Association
RE: Flat Rate Assumptions for Sewage Treatment

I note with a great deal of dissatisfaction that despite the name of Public Service Commission, in my view, you have to date demonstrated a total and incomprehensible lack of service to the segment of your public that I represent.

I filed Complaint TRACKING NUMBER: 124246 with the PSC on September 18th because I could not agree that our community was receiving fair prices. I also contacted the office of our county commissioner, Mr. Pendergrass and the Florida Office of Public Counsel via Mr. Saylor; both have been sympathetic and far more supportive than the PSC. On September 25th, I received an email from Ruth McHargue, a Regulatory Consultant, that my correspondence was **“added to UIF Docket file, 20160101”**. Ms. McHargue suggested that I review the documentation concerning Docket 20160101, which I did. On September 27th, I made a public records request for any additional documentation, in particular anything that could possibly support the conclusion that 5,000 gallons per month was a reasonable assumption in establishing a flat rate for our community. In response, Ms. Stauffer, a PSC Clerk, sent me links to the historical information relating to the Docket. On September 27th, I wrote and explained to the Directors of the PSC about our unfortunate situation and on October 1st, I informed the office of the Governor Mr. Scott. On October 2nd, I received an email from Ms. Fleming, Chief Advisor to Chairman Brown of the PSC that **“The Commission Clerk has placed a copy of your email in Docket Correspondence”**.

After nearly 3 months of waiting, I feel that the only thing that the PSC has done is to ignore our concerns and simply bury the issues by adding the correspondences to the docket. I have been totally unable to provide any satisfactory information to the 905 residences representing approximately 1500 customers of the PSC on why their utility rates were increased this year by over 71%. I would like to request that some knowledgeable representative of the PSC explain this to our community and I would be pleased to schedule and organize such a meeting at his or her convenience.

Frank Maranto, President
Cross Creek Condominium Association, Inc
239 785-4750
xcreek@comcast.net