

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-**

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**DATE:** April 9, 2019

**TO:** Laura King, Chief of Reliability & Resource Planning, Division of Engineering

**FROM:** Division of Engineering (Thompson, Ellis) *TT P&E*  
Division of Accounting and Finance (D. Buys, Cicchetti, Richards)  
Division of Economics (Bruce)  
Office of the General Counsel (Murphy)

**RE:** Docket No. 20180138-SU – Application for staff-assisted rate case in Volusia County by North Peninsula Utilities Corporation.

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**-- STAFF REPORT--**

This Staff Report is preliminary in nature. The Commission staff's final recommendation will not be filed until after the customer meeting scheduled on May 8, 2019.

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## Case Background

North Peninsula Utilities Corporation (NPUC or Utility) is a Class B wastewater only utility serving approximately 428 residential and 5 general service customers in Volusia County. The Florida Public Service Commission (Commission) granted the transfer of Certificate No. 249-S from Shore Utility Corporation to NPUC, effective the date of the Commission vote on December 5, 1989.<sup>1</sup> The Utility's rates were last established in 2000 during an investigation of possible overearnings conducted by the Commission.<sup>2</sup> However, this is NPUC's first staff-assisted rate case (SARC). On November 21, 2016, the Commission issued an order approving in part and denying in part a proposed territory expansion by the Utility.<sup>3</sup>

On July 6, 2018, the DEP issued a Consent Order to NPUC, following the DEP's March 20, 2018, inspection for failing to properly maintain its wastewater treatment facility. The Consent Order requires NPUC to immediately implement preventative measures to ensure system failure does not occur due to deteriorating facility components while reconstruction is underway. This includes but is not limited to: (1) repairing the holes and corrosion in the tanks; (2) repairing the travelling bridge at plant number 3; (3) repairing or replacing the damaged splitter box; and (4) repairing the clarifier skimmer at plant number 3. The Consent Order led to the Utility's application for a SARC and is included as Attachment A.

On July 20, 2018, NPUC filed an application for a SARC. Pursuant to Section 367.0814(2), Florida Statutes (F.S.), the official filing date of the SARC has been determined to be September 14, 2018. The 12-month period ending June 30, 2018, was selected as the test year for the instant case. NPUC is requesting recovery of costs associated with the improvements mandated by the Consent Order, as well as other improvements necessary for the upkeep of its wastewater treatment facility. According to NPUC's 2017 Annual Report, its total operating revenue was \$267,863 and its net operating income was (\$30,531).

This Staff Report is a preliminary analysis of the Utility prepared by Commission staff to give customers and the Utility an advanced look at what staff may be proposing. The final recommendation to the Commission is currently scheduled to be filed June 26, 2019, for consideration at the July 9, 2019 Commission Conference. The recommendation will be revised as necessary using any updated information and results of customer quality of service concerns or other relevant information received at the customer meeting. The Commission has jurisdiction in this case pursuant to Sections 367.011, 367.081, 367.0812, 367.0814 and 367.091, F.S.

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<sup>1</sup>Order No. 22345, issued December 27, 1989, in Docket No. 19891016-SU, *In re: Application of North Peninsula Utilities Corporation for transfer of Certificate No. 249-S from Shore Utility Corporation in Volusia County.*

<sup>2</sup>Order No. PSC-00-1676-PAA-SU, issued September 19, 2000, in Docket No. 20000715-SU, *In re: Investigation of possible overearnings by North Peninsula Utilities Corporation in Volusia County.*

<sup>3</sup>Order No. PSC-16-0522-PAA-SU, issued November 21, 2016, in Docket No. 20130209-SU, *In re: Application for expansion of certificate (CIAC) (new wastewater line extension charge) by North Peninsula Utilities Corp.*

## Discussion of Issues

**Issue 1:** Is the quality of service provided by North Peninsula Utilities Corporation satisfactory?

**Preliminary Recommendation:** Staff's recommendation regarding quality of service will not be finalized until after the customer meeting scheduled on May 8, 2019. (Thompson)

**Staff Analysis:** Pursuant to Section 367.081(2)(a)1, F.S., in wastewater rate cases, the Commission shall determine the overall quality of service provided by the utility. Rule 25-30.433(1), Florida Administrative Code (F.A.C.), requires an evaluation of the utility's attempt to address customer satisfaction, compliance evaluation inspections, outstanding citations, violations, and consent orders on file with the DEP and the county health department over the preceding three-year period. The Commission also considers the infrastructure and operational conditions of the plant and facilities.

### Quality of Service and Operating Condition

NPUC's wastewater system is an existing 210,000 gallons per day (gpd) design capacity and 181,000 gpd annual average daily flow (AADF) permitted capacity domestic wastewater treatment plant (WWTP). Staff reviewed NPUC's compliance evaluation inspections with the DEP to determine the Utility's overall wastewater facility compliance. A review of the March 7, 2017, inspection indicated that NPUC's wastewater treatment facility was in compliance with the DEP's rules and regulations. However, as a result of the March 20, 2018, inspection NPUC was issued a Consent Order from the DEP to address noted disrepairs. NPUC has been required to provide quarterly progress updates to the DEP. NPUC has been working to address the deficiencies noted in the Consent Order from the DEP, and the most recent updates are included as Attachment B. As of now, the work completed by NPUC to address noted deficiencies includes having partially repaired holes in tanks and having repaired the damaged splitter box.

### The Utility's Attempt to Address Customer Satisfaction

Staff reviewed the Commission's Consumer Activity Tracking System records from July 1, 2013 through June 30, 2018, and found one complaint received on September 15, 2017. The customer reported that wastewater had flooded several front yards in the neighborhood. The Utility's response stated that the problem was caused by losing power during Hurricane Irma. Once the storm subsided, the Utility pumped down the lift station until power was restored. When the storm and river water receded from the customer's property, the Utility pumped out the swale and disinfected the area to resolve the issue. Two additional complaints have been received during the course of this docket. One complaint was from the same customer and they again reported that wastewater had flooded their yard. They stated that this has happened five times since 2006, and that the Utility has not upgraded its equipment to resolve this issue. They stated that the Utility did not respond to the issue for over 24 hours therefore lime became caked onto their new pavers. The Utility's response stated that a power surge appeared to damage the alarm system that advises the Utility of issues. The Utility hired an electrician to repair this issue. Regarding the late response, the Utility stated that the septic company's truck broke down on the way to clean the customer's area. The Utility asserts that the customer did not want an employee from the Utility to clean their pavers; therefore, a septic company cleaned them at a later date. The other complaint was related to pump noise and odor. The Utility requested that a County of



Volusia Environmental Specialist test the noise levels at the facility, and the Utility was determined to be in compliance with the Volusia County noise ordinance. Regarding the odor, the Utility stated that it could have been caused by periodic pumping of sludge, which is a part of normal operation, or equipment failures which are repaired as quickly as possible. These complaints have been closed.

Staff requested all complaints received by the Utility during the test year and four years prior. The Utility received a total of 16 customer complaints during this timeframe. The majority of complaints received were related to back up, noise and odor, and each are in the process of being reviewed by staff. Staff also requested all complaints received by the DEP for NPUC during the test year and four years prior, and the DEP provided four complaints during this timeframe related to odor and noise, and one during the course of this docket related to back up. The Utility addressed these issues and the complaints were closed.

### **Conclusion**

NPUC's quality of service will be determined at a later date, pending review of comments made at the customer meeting scheduled on May 8, 2019.

**Issue 2:** What are the used and useful (U&U) percentages of North Peninsula Utilities Corporation's WWTP and collection system?

**Preliminary Recommendation:** NPUC's WWTP and collection system should both be considered 100 percent U&U. Additionally, staff recommends no adjustment to purchased power and chemicals should be made for excessive infiltration and inflow (I&I). (Thompson)

**Staff Analysis:** NPUC's wastewater system was constructed in 1979. As mentioned in Issue 1, NPUC's wastewater facility is permitted by the DEP as a 181,000 gpd AADF facility. The collection system is composed of vitrified clay pipes (VCP) and polyvinyl chloride (PVC) pipes, and there are two lift stations in the service area. NPUC's wastewater collection system comprises 5,420 feet of 6 inch PVC force mains, 10,305 feet of 8 inch VCP collecting mains, and 10,777 feet of 8 inch PVC collecting mains. There are approximately 87 manholes in the service area.

Rates were last established for NPUC in Docket No. 20000715-SU, and the Utility's U&U for its WWTP and collection system were last determined in that docket as well. In that docket, the Commission determined the Utility's WWTP and collection system were operating over capacity, and found both the WWTP and collection system to be 100 percent U&U.

### **Infiltration and Inflow**

Rule 25-30.432, F.A.C., provides that in determining the amount of U&U, the Commission will consider I&I. Excessive I&I is a calculation that is based on a comparison of the allowable I&I to the total estimated amount of I&I. Allowable I&I was calculated as 9,044,827 gallons per year. However, since the Utility has flat rate billing, staff was unable to accurately determine the total estimated amount of I&I. Therefore, staff has assumed that there is no excessive I&I for staff report purposes.

### **Used and Useful Percentages**

As noted above, the Commission previously found both the WWTP and collection system to be 100 percent U&U. The Utility has not increased the capacity of its WWTP, but it has expanded its territory since rates were last established. The Utility has currently only connected four new customers since the territory amendment, but has additional connection capacity of 288 equivalent residential connections (ERCs). Staff is currently in the process of determining whether or not the Utility has built additional facilities to address the increased capacity of its collection system. However, for staff report purposes and consistent with the Commission's previous decision, staff recommends the Utility's WWTP and collection system be considered 100 percent U&U.

### **Conclusion**

NPUC's WWTP and collection system should be considered 100 percent U&U. Additionally, staff recommends no adjustment to purchased power and chemicals should be made for excessive I&I.

**Issue 3:** What is the appropriate average test year rate base for North Peninsula Utilities Corporation?

**Preliminary Recommendation:** The appropriate average test year rate base for the Utility is \$377,434. (Richards, Thompson)

**Staff Analysis:** The appropriate components of the Utility's rate base include utility plant in service (UPIS), land, accumulated depreciation, contribution-in-aid-of-construction (CIAC), accumulated amortization of CIAC, and working capital. The last proceeding that established balances for rate base was Docket No. 20000715-SU.<sup>4</sup> Staff selected the test year ended June 30, 2018, for the instant rate case. A summary of each component and the recommended adjustments follows.

#### **Utility Plant in Service (UPIS)**

The Utility recorded \$960,499 for UPIS. The staff audit identified several adjustments resulting in a net decrease to UPIS of \$77,596 to reflect the appropriate balances and additions that were not booked. Staff increased UPIS by \$1,462 for the connection of a new customer. Staff also made an averaging adjustment to decrease UPIS by \$5,408. Staff made an adjustment increasing UPIS by \$50,185 to reflect pro forma plant additions. Therefore, staff recommends an average UPIS balance of \$929,142 ( $\$960,499 - \$77,596 + \$1,462 - \$5,408 + \$50,185$ ).

#### **Pro Forma Plant Additions**

As shown in Table 3-1, NPUC has requested several pro forma plant projects, some of which were mandated by the DEP Consent Order. Other projects are plant improvements being requested by the Utility in order to continue to provide reliable service to its customers. The wastewater treatment facility is located on a narrow peninsula between the Atlantic Ocean and the Halifax River in Ormond Beach, Florida. According to the Utility, weather and saltwater conditions have led to the corrosive environment of the wastewater facility. The Utility asserts that the area frequently experiences strong storms, and that the facility has dealt with two major hurricanes in recent years. Due to these issues, the Utility states that the wastewater facility requires a major overhaul.

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<sup>4</sup>Order No. PSC-2000-1676-PAA-SU, issued September 19, 2000, in Docket No. 20000715-SU, *In re: Investigation of possible overearnings by North Peninsula Utilities Corporation in Volusia County*.

**Table 3-1  
 Pro-Forma Plant Items**

<b>Project</b>	<b>Acct. No.</b>	<b>Amount</b>	<b>Retirement</b>
New Tower and Installation	370	\$35,329	(\$26,497)
New Sludge Return Troughs in Plant #1	380	\$7,607	(\$5,705)
Repair Top Part of Plant #1	380	\$30,109	(\$22,582)
New Surge Pump and Stand	371	\$7,085	(\$5,314)
Replace Air Supply Lines in Clarifiers	380	\$3,314	(\$2,486)
Replace Main Lift Station Pump Stands	371	\$3,090	(\$2,318)
Two New Mechanical Gear Drives	380	\$7,793	(\$5,845)
New Blower Motor Assembly for Plant #1	380	\$5,969	(\$4,477)
Welding and Steel Work to Plant #2	380	\$9,870	(\$7,403)
Two New Pump Equipment Stands for Lift Station #2	371	\$3,090	(\$2,318)
Install Sound Control Assembly for Blower	380	\$2,988	(\$2,241)
New Motor-Blower Assembly for Plant #1 and Plant #2	380	\$10,123	(\$7,592)
Three New Emergency Pumps	371	\$17,412	(\$13,059)
Replace Travelling Bridge Return at Plant #3 (DEP mandate)	380	\$5,275	(\$3,956)
Repair Clarifier Skimmer at Plant #3 (DEP mandate)	380	\$1,826	(\$1,370)
Replace Entrance Gate	354	\$1,975	(\$1,481)
New Fence	354	\$10,250	(\$7,688)
Land Improvements	354	\$8,333	(\$6,250)
Pump House Repairs	354	\$5,229	(\$3,921)
Electrical Box Replacements	380	\$23,425	(\$17,569)
Other	360	\$500	(\$375)
Other	363	\$150	(\$113)
Miscellaneous 10 percent	-	\$22,000	-

Source: Responses to staff data requests

As is Commission practice, staff requested that three bids be provided for each requested pro forma project. Three bids were provided for the Land Improvements project, and the lowest bidder was selected by the Utility. The Utility has provided two bids for the Clean and Video Sanitary Sewer Pipes, Sanitary Manhole Repair, Replace Entrance Gate, Fence Repair, New Fence, and Pump House Repairs projects thus far. Only one bid has been provided as of now for each of the other projects. Staff is currently awaiting additional bids from the Utility, and will provide a recommendation as to whether or not these project costs are appropriate in the final recommendation. However, staff is disallowing the Miscellaneous 10 percent project. The Utility denoted a 10 percent contingency cost to its overall cost estimate to account for any repairs that are not immediately apparent. Since this cost is not directly related to a specific plant improvement, staff recommends that it should be removed. Pro forma operation and maintenance (O&M) items are included in Issue 6. Table 3-2 is a breakdown of the pro forma projects.

**Table 3-2  
 Pro Forma Plant**

<b>Acct.</b>	<b>Addition</b>	<b>Accum Dep</b>	<b>Retirement</b>	<b>Net Plant</b>	<b>Net Accum Dep</b>
354	\$25,787	\$955	(\$19,340)	\$6,447	(\$18,835)
360	\$500	\$19	(\$375)	\$125	(\$356)
363	\$150	\$4	(\$113)	\$38	(\$108)
370	\$35,329	\$1,413	(\$26,497)	\$8,832	(\$25,084)
371	\$30,677	\$2,045	(\$23,008)	\$7,669	(\$20,963)
380	\$108,299	\$7,220	(\$81,224)	\$27,075	(\$74,004)
	<b>\$200,742</b>	<b>\$11,656</b>	<b>(\$150,556)</b>	<b>\$50,185</b>	<b>(\$138,900)</b>

**Land & Land Rights**

The Utility recorded a test year land value of \$46,800. Staff did not make any adjustments to this account.

**Accumulated Depreciation**

The Utility recorded an accumulated depreciation balance of \$926,024. Staff calculated accumulated depreciation to be \$767,481, resulting in a decrease of \$158,543. Staff’s balance includes adjustments the Utility should have recorded, and adjustments to correct accounts that the Utility continued to depreciate. Staff increased accumulated depreciation by \$21 for the connection of a new customer. Staff also made an averaging adjustment to accumulated depreciation that resulted in a decrease of \$262. Further, staff made corresponding adjustments to accumulated depreciation based on the pro forma plant additions and retirements resulting in an additional decrease of \$138,900 as summarized in Table 3-1. Staff’s adjustments result in an accumulated depreciation balance of \$628,340 ( $\$926,024 - \$158,543 + \$21 - \$262 - \$138,900$ ).

**Contributions In Aid of Construction (CIAC)**

The Utility recorded a CIAC balance of \$640,994. In June 2018, a new customer was connected to the Utility’s force main. The Utility did not reflect a customer connection during the test year. As a result, staff increased CIAC by \$1,462 (\$762 main extension charge and a \$700 inspection fee). Additionally, staff decreased CIAC by \$731 to reflect an averaging adjustment. Staff recommends the appropriate CIAC balance is \$641,725 ( $\$640,994 + \$1,462 - \$731$ ).

**Accumulated Amortization of CIAC**

The Utility recorded accumulated amortization of CIAC of \$640,994. Prior to adding the new customer connection, CIAC was fully amortized in the year ended 2007. Staff increased accumulated amortization of CIAC by \$21 to reflect the new connection. Staff recommends accumulated amortization of CIAC balance of \$641,015 ( $\$640,994 + \$21$ ).

**Working Capital Allowance**

Working capital is defined as the short-term investor-supplied funds that are necessary to meet operating expenses. Consistent with Rule 25-30.433(2), F.A.C., staff used one-eighth of the O&M expense (less rate case expense) formula for calculating the working capital allowance. Applying this formula, staff recommends a working capital allowance of \$30,542.



**Rate Base Summary**

Based on the foregoing, staff recommends that the appropriate average test year rate base is \$377,434. Rate base is shown on Schedule No. 1-A. The related adjustments are shown on Schedule No. 1-B.

**Issue 4:** What is the appropriate return on equity and overall rate of return for North Peninsula Utilities Corporation?

**Preliminary Recommendation:** The appropriate return on equity (ROE) is 10.93 percent with a range of 9.93 percent to 11.93 percent. The appropriate rate of return is 5.66 percent. (Richards)

**Staff Analysis:** The Utility has negative common equity of \$863,609 on its 2017 annual report. In accordance with Commission practice, staff set the negative common equity to zero.<sup>5</sup> The Utility does not have any customer deposits on its books. The Utility also recorded a long-term debt balance of \$1,046,003.

The Utility's capital structure has been reconciled with staff's recommended rate base. The appropriate ROE for the Utility is 10.93 percent based upon the Commission-approved leverage formula currently in effect.<sup>6</sup> Staff recommends an ROE of 10.93 percent with a range of 9.93 percent to 11.93 percent, and an overall rate of return of 5.66 percent. The overall rate of return is the Utility's weighted average cost of long-term debt. The ROE and overall rate of return are shown on Schedule No. 2.

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<sup>5</sup>Order Nos. PSC-2016-0537-PAA-WU, issued November 23, 2016, in Docket No. 20150181-WU, *In re: Application for staff-assisted rate case in Duval County by Neighborhood Utilities, Inc.*; PSC-2015-0535-PAA-WU, issued November 19, 2015, in Docket No. 20140217-WU, *In re: Application for staff-assisted rate case in Sumter County by Cedar Acres, Inc.*; PSC-2013-0140-PAA-WU, issued March 25, 2013, in Docket No. 20120183-WU, *In re: Application for staff-assisted rate case in Lake County by TLP Water, Inc.*

<sup>6</sup>Order No. PSC-2018-0327-PAA-WS, issued June 26, 2018, in Docket No. 20180006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

**Issue 5:** What are the appropriate test year revenues for North Peninsula Utilities Corporation?

**Preliminary Recommendation:** The appropriate test year revenues for NPUC's wastewater system are \$243,777. (Bruce)

**Staff Analysis:** NPUC does not keep a formal general ledger, but rather an excel spreadsheet of the check register. As a result, staff used the regulatory assessment fees (RAFs) form as a basis for the test year revenues. The RAF forms reflected test year revenues of \$242,291. In order to determine the appropriate test year revenues, staff evaluated the billing determinants and the number of miscellaneous occurrences during the test year. The Utility had a price index increase subsequent to the test year. The Utility's billing determinants and the rates that became effective after the test year result in annualized test year service revenues of \$241,705. In addition, the Utility had 306 test year late payment occurrences. Applying the Utility's approved miscellaneous service charges to the number of occurrences during the test year result in miscellaneous revenues of \$2,072. Thus, test year revenues should be \$243,777 ( $\$241,705 + \$2,072$ ). Staff made an adjustment of \$1,486 ( $\$243,777 - \$242,291$ ) to reflect the appropriate test year revenues. Based on the above, staff recommends that the appropriate test year revenues for NPUC's wastewater system are \$243,777.

**Issue 6:** What is the appropriate test year operating expense for North Peninsula Utilities Corporation?

**Preliminary Recommendation:** The appropriate amount of operating expense for the Utility is \$275,029. (Richards)

**Staff Analysis:** The Utility recorded operating expense of \$286,166. The test year O&M expenses have been reviewed by staff, including invoices and other supporting documentation. Staff has made several adjustments to the Utility's operating expenses as discussed below.

## **Operation and Maintenance Expenses**

### ***Purchased Power (715)***

The Utility recorded Purchased Power expense of \$12,245. Staff decreased Purchased Power expense by \$949 to remove out of test year amounts. Staff also decreased this amount by \$33 to reflect removal of late fees. Therefore, staff recommends Purchased Power expense of \$11,264 ( $\$12,245 - \$949 - \$33$ ).

### ***Chemicals (718)***

The Utility recorded Chemicals expense of \$5,776. Staff decreased Chemicals expense by \$389 to remove out of test year amounts. Therefore, staff recommends Chemicals expense of \$5,387 ( $\$5,776 - \$389$ ).

### ***Contractual Service – Management Fees (734)***

The Utility recorded Contractual Services – Management Fee of \$135,487. This expense is paid to Peninsula Management Incorporated (PMI) based on a contract between the Utility and PMI to handle administrative and management functions of NPUC. Staff is continuing to review the costs and terms of the contract and expects adjustments will be made. On a preliminary basis, staff does not recommend any change to the requested cost of the contract for the staff report.

### ***Contractual Services – Other (736)***

The Utility recorded Contractual Services – Other of \$34,788. Staff increased this amount by \$95 to reflect a correction to repairs per invoices. Staff also increased this amount by \$6,958 to reflect expenses associated with pro forma projects amortized over five years, detailed in Table 6-1 ( $\$34,790 / 5$ ). Therefore, staff recommends Contractual Services – Other expense of \$41,841 ( $\$34,788 + \$95 + \$6,958$ ).

**Table 6-1  
 Pro Forma O&M Items**

<b>Project</b>	<b>Acct. No.</b>	<b>Amount</b>
Repair Holes in Tank (DEP mandate)	380	\$4,606
Repair Splitter Box (DEP mandate)	380	\$1,675
Clean and Video Sanitary Sewer Pipes	360	\$23,209
Sanitary Manhole Repair	363	\$2,200
Fence Repair	354	\$3,100
<b>Total</b>	-	\$34,790

Source: Responses to staff data requests

***Insurance – General Liability (757)***

The Utility recorded Insurance – General Liability expense of \$2,252. Staff decreased this amount by \$30 to reflect removal of late fees charged to the Utility. Therefore, staff recommends Insurance – General Liability expense of \$2,222 (\$2,252 – \$30).

***Regulatory Commission Expense (765)***

The Utility did not record any regulatory commission expense. By Rule 25-22.0407, F.A.C., the Utility is required to mail notices of the customer meeting, notices of final rates in this case, and notices of four-year rate reduction to its customers. Staff estimates noticing to cost \$1,641. Using the 2018 Internal Revenue Service approved business travel rate,<sup>7</sup> staff has estimated travel expense to be \$418.<sup>8</sup> Additionally, the Utility paid a \$1,000 rate case filing fee. The Utility has retained the services of Willdan Financial Services to assist with this rate case. Staff has estimated a contract fee of \$1,500 for Willdan’s services. Therefore, as shown in Table 6-2, staff recommends that the total rate case expense is \$4,559 (\$1,641 + \$418 + \$1,000 + \$1,500), which amortized over four years results in a Regulatory Commission Expense of \$1,140 (\$4,559 / 4).

<sup>7</sup>2018 IRS business travel rate is \$0.545 per mile.

<sup>8</sup>Ormond Beach, FL is 246 miles from Tallahassee, FL



**Table 6-2  
 Regulatory Commission Expense**

<b>Description</b>	<b>Amount</b>
Noticing Expenses	
Envelopes	\$88
Postage	\$967
Documents	<u>\$586</u>
Total Noticing	\$1,641
Travel Expenses	
Travel	\$268
Lodging	<u>\$150</u>
Total Travel	\$418
Filing Fee	\$1,000
Consultation	<u>\$1,500</u>
Total Rate Case Expense	<u>\$4,559</u>
Amortized over Four Years	\$1,140

***Miscellaneous Expense (775)***

The Utility recorded miscellaneous expense of \$7,066. Staff decreased this amount by \$9 to remove interest payments made by the Utility. Staff also decreased this amount by \$1,313 to remove expenses incurred prior to the test year. Therefore, staff recommends Miscellaneous Expense of \$5,744 (\$7,066 - \$9 - \$1,313).

**Operation and Maintenance Expenses Summary**

The Utility recorded O&M expenses of \$240,005 for the test year. Based on the above adjustments, staff recommends that the O&M expense balance be increased by \$5,471, resulting in a total O&M expense of \$245,476 (\$239,405 + \$5,471). Staff's recommended adjustments to O&M expenses are shown on Schedule 3-C.

**Depreciation Expense**

The Utility recorded depreciation expense of \$27,508 for the test year. Staff determined that the Utility continued to depreciate plant items after they had been fully depreciated. Staff recalculated depreciation expense using the prescribed rates set forth in Rule 25-30.140, F.A.C. and reduced depreciation expense by \$22,910. Further, staff increased depreciation expense by \$2,914 associated with pro forma plant additions. Based on the above, staff recommends a test year depreciation expense of \$7,512 (\$27,508 – \$22,910 + \$2,914).

**Taxes Other Than Income (TOTI)**

The Utility recorded TOTI of \$18,653. Staff increased this amount by \$67 to reflect the appropriate RAFs based on corrected Utility test year revenues. Staff increased TOTI by \$954 to

reflect the increased property taxes due to pro forma plant additions.<sup>9</sup> Staff increased TOTI by \$2,368 to reflect the appropriate RAFs associated with the recommended revenue increase. Staff is therefore recommending TOTI of \$22,041 ( $\$18,653 + \$67 + \$954 + \$2,368$ ).

### **Income Tax**

The Utility is a Subchapter S Corporation and therefore did not record any income tax expense for the test year. NPUC has shown a net loss for the last several years in its Annual Reports. Staff recommends no adjustment to income tax expense.

### **Operating Expenses Summary**

The application of staff's recommended adjustments to NPUC's test year operating expenses result in operating expense of \$275,029. Operating expenses are shown on Schedule No. 3-A. The related adjustments are shown on Schedule No. 3-B.

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<sup>9</sup>Volusia County 2018 Real Estate bill, millage rate of 20.17250.

**Issue 7:** What is the appropriate revenue requirement?

**Preliminary Recommendation:** The appropriate revenue requirement is \$296,392, resulting in an annual increase of \$52,615 (21.58 percent). (Richards)

**Staff Analysis:** NPUC should be allowed an annual increase of \$52,615 (21.58 percent). This will allow the Utility the opportunity to recover its expenses and earn a 5.66 percent return on its wastewater system. The calculations are shown in Table 7-1.

**Table 7-1  
Revenue Requirement**

Adjusted Rate Base	\$377,434
Rate of Return	<u>5.66%</u>
Return on Rate Base	\$21,363
Adjusted O&M Expense	245,476
Depreciation Expense (Net)	7,512
Taxes Other Than Income	22,041
Income Taxes	<u>0</u>
Revenue Requirement	\$296,392
Less Test Year Revenues	<u>243,777</u>
Annual Increase	\$52,615
Percent Increase	21.58%

**Issue 8:** What is the appropriate rate structure and rates for North Peninsula Utilities Corporation's wastewater systems?

**Preliminary Recommendation:** The recommended rate structure and monthly wastewater rates are shown on Schedule No. 4-A. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Bruce)

**Staff Analysis:** NPUC is located in Volusia County within the St. Johns River Water Management District. The Utility provides wastewater service to 428 residential single family homes, four condominium associations, and a restaurant. Water service is provided by the City of Ormond Beach (City). The Utility's current wastewater rates consist of a monthly flat rate per ERC for the residential and general service classes, which was approved in 1985.<sup>10</sup> A residential single family home and condominium unit are billed as one ERC. However, the restaurant is billed as 14 ERCs.<sup>11</sup> For the condominium associations, the Utility sends one bill to each condominium association based on the respective number of ERCs.

In order to evaluate alternative rate structures, staff requested the Utility provide metered water data. The Utility provided 12 months of metered water data from the City; however, due to the format of the data, it would take a significant amount of administrative time to identify and isolate the water usage for each customer. The Utility also expressed concern that it would incur additional costs, on a prospective basis, for obtaining the monthly metered water usage data from the City for billing purposes. Therefore, staff does not believe that it is cost effective to bill based on the metered water usage. Staff recommends that the Utility continue the current flat rate structure based on ERCs. As a result, staff calculated 7,200 ERCs for wastewater as shown on Table 8-1. Staff's recommended flat rates are shown on Schedule No. 4-A. Because a single bill is sent to each condominium association, staff recommends bulk flat rates based on the respective ERCs.

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<sup>10</sup>Order No. 16184, in Docket No. 19850121-SU, issued June 4, 1986, *In re: Application of Shore Utility Corporation for a staff-assisted rate case in Volusia County, Florida.*

<sup>11</sup>Order No. PSC-09-0420-TRF-SU, in Docket No.20090040-SU, issued July 21, 2009, *In re: Application for amendment of Certificate No. 249-S to extend territory in Volusia County by North Peninsula Utilities Corp. and a request for approval of a new class of service for a general service wastewater customer in Volusia County.*

**Table 8-1  
 Staff's Calculated ERCs**

<b>Wastewater Customers</b>	<b>Number of Units</b>	<b>Monthly ERCs</b>	<b>Annual ERCs</b>
<u>Residential</u>			
Single Family Residential Homes	428	428	5,136
<u>General Service</u>			
Las Olas Townhomes	6	6	72
Ocean Air	17	17	204
Seabridge North	65	65	780
Seabridge South	70	70	840
Restaurant	1	14	168
<b>Total ERCs</b>		<b>600</b>	<b>7,200</b>

The recommended rate structures and monthly wastewater rates are shown on Schedule No. 4-A. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.



**Issue 9:** What is the appropriate amount by which rates should be reduced in four years after the published effective date to reflect the removal of the amortized rate case expense?

**Preliminary Recommendation:** In four years, the wastewater rates should be reduced, as shown on Schedule No. 4-A, to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.081(8), F.S. NPUC should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Bruce, Richards)

**Staff Analysis:** Section 367.081(8), F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in rates. The reduction will reflect the removal of revenue associated with the amortization of rate case expense and the gross-up for RAFs. This results in a reduction of \$1,193.

The wastewater rates should be reduced, as shown on Schedule No. 4-A, to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.081(8), F.S. NPUC should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

**Issue 10:** Should the recommended rates be approved for North Peninsula Utilities Corporation on a temporary basis, subject to refund with interest, in the event of a protest filed by a party other than the Utility?

**Preliminary Recommendation:** Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the Utility on a temporary basis, subject to refund with interest, in the event of a protest filed by a party other than the Utility. NPUC should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. Prior to implementation of any temporary rates, the Utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Office of Commission Clerk no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund. (Richards)

**Staff Analysis:** This recommendation proposes an increase in wastewater rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, pursuant to Section 367.0814(7), F.S., in the event of a protest filed by a party other than the Utility, staff recommends that the recommended rates be approved as temporary rates. NPUC should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. The recommended rates collected by the Utility should be subject to the refund provisions discussed below.

NPUC should be authorized to collect the temporary rates upon staff's approval of an appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$35,197. Alternatively, the Utility could establish an escrow agreement with an independent financial institution.

If the Utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

1. The Commission approves the rate increase; or
2. If the Commission denies the increase, the Utility shall refund the amount collected that is attributable to the increase.

If the Utility chooses a letter of credit as a security, it should contain the following conditions:

1. The letter of credit is irrevocable for the period it is in effect, and
2. The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

1. The Commission Clerk, or his or her designee, must be a signatory to the escrow agreement;
2. No monies in the escrow account may be withdrawn by the Utility without the prior written authorization of the Commission Clerk, or his or her designee;
3. The escrow account shall be an interest bearing account;
4. If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
5. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility;
6. All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
7. The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
8. This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments;
9. The account must specify by whom and on whose behalf such monies were paid.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the Utility. Irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase should be maintained by the Utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

Should the recommended rates be approved by the Commission on a temporary basis, NPUC should maintain a record of the amount of the security, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Office of Commission Clerk no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

**Issue 11:** Should the North Peninsula Utilities Corporation be required to notify the Commission within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) associated with the Commission approved adjustments?

**Preliminary Recommendation:** Yes. The Utility should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. NPUC should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) accounts have been made to the Utility's books and records. In the event the Utility needs additional time to complete the adjustments, notice should be provided not less than seven days prior to the deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days. (Richards)

**Staff Analysis:** The Utility should be required to notify the Commission, in writing that it has adjusted its books in accordance with the Commission's decision. NPUC should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA accounts have been made to the Utility's books and records. In the event the Utility needs additional time to complete the adjustments, notice should be provided not less than seven days prior to deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days.

**Issue 12:** Should this docket be closed?

**Preliminary Recommendation:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively. (Murphy)

**Staff Analysis:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively.





**Florida Department of  
Environmental Protection**

Central District  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Noah Valenstein  
Secretary

July 6, 2018

Robert Hillman, President  
North Peninsula Utilities Corporation  
Seabridge Drive  
Ormond Beach, FL 32176  
[developershw@gmail.com](mailto:developershw@gmail.com)

Re: Seabridge WWTF  
DW Facility ID #FLA011188  
Volusia County  
OGC File No. 18-0258

Dear Mr. Hillman:

Enclosed is a Consent Order ("Order") prepared by the Department for resolution of the referenced enforcement case. Please review this document and within 20 days of receipt, either: 1) return a signed copy to the Department or 2) provide comments and suggested changes. Once fully executed, a copy of the final document will be forwarded to you.

Should you have any questions or comments, please contact Dr. Phil Kane at 407-897-4156 or via e-mail at [phil.kane@dep.state.fl.us](mailto:phil.kane@dep.state.fl.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Aaron Watkins".

Aaron Watkins, Assistant Director  
Central District

Enclosure: Consent Order, OGC No. 18-0258

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT )	IN THE OFFICE OF THE
OF ENVIRONMENTAL PROTECTION )	CENTRAL DISTRICT
)	
v. )	OGC FILE NO. 18-0258
)	
NORTH PENINSULA UTILITIES )	
CORPORATION )	
_____ )	

CONSENT ORDER

This Consent Order ("Order") is entered into between the State of Florida Department of Environmental Protection ("Department") and North Peninsula Utilities Corporation ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Florida Statutes ("F.S."), and the rules promulgated and authorized in Title 62, Florida Administrative Code ("F.A.C."). The Department has jurisdiction over the matters addressed in this Order.
2. Respondent is a person within the meaning of Section 403.031(5), F.S.
3. Respondent is the owner and is responsible for the operation of the Seabridge Wastewater Treatment Facility, 0.210 million gallons per day (MGD) three-month average daily flow (TMADF) wastewater treatment facility with reclaimed water and two rapid infiltration basins (RIBs) ("Facility"). The Facility is operated under Wastewater Permit No. FLA011188-003 ("Permit"), which was issued on September 4, 2013 and will expire on September 3, 2018. The Facility is located at Seabridge Drive, Parcel ID 321605000001, Ormond Beach in Volusia County, Florida, Parcel ID ("Property"). Respondent owns the Property on which the Facility is located.

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Consent Order, OGC No. 18-0258  
Page 2

4. The Department finds that the following violation(s) occurred:

a) Respondent failed to properly maintain the facility, in violation of Chapter 62-620.610(7) F.A.C., which requires the Respondent to properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used to achieve compliance with the conditions of this permit. The following discrepancies were noted during an inspection conducted by Department staff on March 20, 2018:

- i. Numerous holes were noted in integral components of the wastewater treatment plants.
- ii. Plant number 3 had a broken inoperable travelling bridge.
- iii. The splitter box for the combined facility exhibited potential failure characteristics.

b) Respondent failed to submit groundwater monitoring reports for the 3rd and 4th quarter of 2017, in violation of Chapter 62-600.680 (1)(a) F.A.C. which requires Respondent submit Discharge Monitoring Reports to the Department in accordance with the frequencies specified on the Discharge Monitoring Report forms attached to the wastewater permit.

c) Respondent failed to monitor the wells for Sodium, a required parameter in the permit, in violation of Permit Condition III.B.1.,2. and 5.

d) Respondent failed to properly address chloride exceedances in the monitoring wells, in violation of Permit Condition III.B.1.,2., and 5.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

**ORDERED:**

5. Respondent shall comply with the following corrective actions within the below stated time periods:

a) Within 30 days of the effective date of this Order, Respondent shall retain the services of a professional engineer, registered in the State of Florida, to accomplish all of the following:

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- i. Evaluate the Facility, including the effluent disposal system, associated collection system and groundwater monitoring plan, to discover the cause or potential causes of the non-compliance.
  - ii. Design modifications of the Facility, including the effluent disposal system, collection systems and monitoring plan to ensure the Facility will function in full and consistent compliance with all applicable rules of the Department.
  - iii. Complete an application for a Department wastewater permit to construct the modifications developed pursuant to subparagraph 5(a)(ii) of this paragraph, if such a permit is required.
  - iv. Oversee the construction of any modifications to the Facility.
  - v. Submit to the Department a Certification of Completion, prepared and sealed by a professional engineer registered in the State of Florida, stating that modifications to the Facility, including the effluent disposal system and collection system, have been constructed in accordance with the provisions of the Permit.
  - vi. Contact Dr. Phil Kane, before initiating the treatment system evaluation described in subparagraphs 5(a)i. of this paragraph.
  - vii. In the event the Department requires additional information to process the permit application described in subparagraph 5(a)(iii) above, provide a written response containing the information requested by the Department within 30 days of the date of the request.
- b) Within 180 days of the effective date of this Order, Respondent shall submit a complete application for a Department wastewater permit to construct and or implement the modifications and monitoring plan revisions developed pursuant to subparagraphs 5(a)(ii) of this Order.
- c) Within 365 days of the effective date of the wastewater permit issued in accordance with subparagraph 5(b) above, Respondent shall complete construction of the modification(s) developed pursuant to subparagraph 5(a) and submit a Certification of Completion, prepared and sealed by a professional engineer registered in the State of Florida,

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stating that modifications to the Facility, including the effluent disposal system and collection system, have been constructed in accordance with the provisions of the Permit.

d) Immediately implement preventative measures to ensure system failure does not occur due to deteriorating facility components while the process of reconstruction is under way, including, but not limited to the following:

- i. Repair the holes and corrosion in the tanks.
- ii. Repair the travelling bridge at plant number 3.
- iii. Repair or replace the damaged splitter box.
- iv. Repair the clarifier skimmer at plant number 3.

e) Beginning immediately, submit quarterly groundwater monitoring reports by the due date established in the Permit according to the schedule in the following table:

<b>SAMPLE PERIOD</b>	<b>REPORT DUE DATE</b>
January - March	April 28
April - June	July 28
July - September	October 28
October - December	January 28

f) Immediately begin sampling and reporting Sodium in all ground water monitoring reports as required by the Facility's Permit.

g) Every calendar quarter after the effective date of this Order and continuing until all corrective actions have been completed, Respondent shall submit to the Department a written report containing information about the status and progress of projects being completed under this Order, information about compliance or noncompliance with the applicable requirements of this Order, including construction requirements and effluent limitations, and any reasons for noncompliance. These reports shall also include a projection of the work Respondent will perform pursuant to this Order during the 12-month period which will follow the report. Respondent shall submit the reports to the Department within 30 days of the end of each quarter.

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6. Notwithstanding the time periods described in the paragraphs above, Respondent shall complete all corrective actions required by paragraph 5 within 545 days of the effective date of this Order and be in full compliance with Rule 620, F.A.C., regardless of any intervening events or alternative time frames imposed in this Order, other than those excused delays agreed to by the Department, as described in paragraph 14 of this Order.

7. Within 90 days of the effective date of this Order, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

8. Within 60 days of the effective date of this Order, Respondent shall pay the Department \$500.00 in settlement of the regulatory matters addressed in this Order. This amount has been assessed for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order.

9. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraph 5 of this Order. The Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment, and shall do so as further described in paragraphs 10 or 11, below. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order.

10. Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number assigned to this Order and the notation "Water Quality Assurance Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldeportal.com/go/pay/>. It will take a number of days after this order is final

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and effective filed with the Clerk of the Department before ability to make online payment is available.

11. Except as otherwise provided, all submittals and payments required by this Order shall be sent to Aaron Watkins, Department of Environmental Protection, Central District 3319 Maguire Blvd., Suite 232 Orlando, Florida 32803.

12. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

13. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

14. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines shall be considered circumstances beyond the control of Respondent (unless the cause of the contractor's late performance was also beyond the contractor's control). Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of (a) the

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anticipated length and cause of the delay, (b) the measures taken or to be taken to prevent or minimize the delay, and (c) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must identify the provision or provisions extended, the new compliance date or dates, and the additional measures Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

15. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for the violations described above up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

16. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

17. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or rules administered by the Department that are not specifically resolved by this Order.

18. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000.00 per day per violation, and criminal penalties.

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Consent Order, OGC No. 18-0258  
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19. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, F.S., on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, F.S.

20. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

21. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order constitutes a violation of section 403.161(1)(b), F.S.

22. This Consent Order is a final order of the Department pursuant to section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

23. Rules referenced in this Order are available at  
<https://softlive.dep.state.fl.us/ogc/ogc/content/rules>

FOR THE RESPONDENT:

\_\_\_\_\_  
Robert L. Hillman  
President

\_\_\_\_\_  
Date

DEP vs. North Peninsula Utilities Corporation  
Consent Order, OGC No. 18-0258  
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DONE AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2018, in Orange County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Aaron Watkins  
Assistant Director, Central District

Filed, on this date, pursuant to section 120.52, F.S., with the designated Department Clerk,  
receipt of which is hereby acknowledged.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

Copies furnished to:

Lea Crandall, Agency Clerk  
Mail Station 35

DW\_CO (REV 06/09)

DW/CO September 2015

Cadenhead Environmental Engineering Services, Inc.



1982 SR 44, #201, New Smyrna Beach, Florida 32168  
Phone: (904) 307-6824 (cell), Email Address: mark\_cadenhead@bellsouth.net

January 26, 2019

Dr. Phil Kane  
Department of Environmental Protection  
Domestic Wastewater Section  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Dear Dr. Kane:

Re: North Peninsula Utilities WWTF (fka Seabridge WWTF)  
Facility I.D. No.: FLA011188  
Consent Agreement No.: 18-0258: Second Quarterly Report

In accordance with item 5.g of the subject Consent Agreement, a quarterly report is due by January 30, 2019. The following information is provided to meet that requirement. As supplement, please see the attached tracking document that is being maintained by the Respondent and the Professional Engineer.

The following items have been completed (or partially completed) during the past quarter:

1. 5.a.i: Evaluate the Facility including effluent disposal system, associated collection system and groundwater monitoring plan, to discover the cause or potential causes of the non-compliance. *(Discussions with the groundwater monitoring group indicated that the wells purge and develop properly and that there appear to be no physical issues with the wells. Salt water intrusion continues to be considered an issue with the wells for TDS. Monitoring will continue on schedule of quarterly.)*
2. 5.b.: Respondent shall submit a complete application for the Dept. wastewater permit to construct and or implement the modifications and monitoring plan revisions developed pursuant to Subparagraph 5.a.)ii.. *(Permit determination received January 23, 2019. For planned work, no permit is required at this time.)*
3. 5.d.i.: Repair holes in the tanks: *(Partially completed. Additional work planned once the Public Service Commission rules on rate increase.)*
4. 5.e.: Quarterly monitoring of groundwater performed on October 31, 2018. *Re-sampling for fecal coliform was conducted at MWC-4 based on result of 5.0 #/100 ml; the result of the resample was compliant at 4.0 #/100 ml.*
5. 5.f.: Sodium was sampled in all wells on October 31, 2018. *(Please see the submitted 4<sup>th</sup> quarter groundwater monitoring report. Sodium was elevated in some wells but not above the groundwater standard. The indications remain that there most likely is salt water intrusion.)*

RECEIVED

JAN 29 2019

DEP Central District

North Peninsula Utilities WWTF  
Consent Agreement No.: 18-0258  
First Quarterly Report  
January 26, 2019  
Page 2

6. 5. d.) iii. Repair or replace the damaged splitter box. (*Repaired January 14, 2019.*)

The following items were unanticipated expenditures based on operational issues at the plant creating a situation where funds must be redirected:

1. Replacement of three (3) motors at the lift station and the surge tank.
2. Replacement of the gate and some fencing with posts to provide additional security.
3. Contract with Bayshore Electric to rewire some components following an inspection and evaluation of the electrical system. In addition, the electrical issues created a need for replacement of coils, wiring, 3 phase breakers and fuses.
4. "Mission Control System" failed and components were ordered and replaced, including the control panel.

The following items are proposed or scheduled to be completed within the upcoming 12-month period:

1. 5.a.i.: Based on future quarterly groundwater reports, continue to evaluate the groundwater monitoring plan and address such items as sodium in the wells and chlorides. Total Dissolved Solids continues to be elevated in most wells.
2. 5.a.i.: Repair the manhole allowing storm water into the collection system. Continue evaluation of the collection system and address any issues as necessary.
3. Based on the results of the Public Service Commission review of the proposed rate increase, either repairs will be made to the metal plants or the items as they relate to submitting a permit for modifications or work at the plant will be made as required by the Consent Agreement.
4. 5.c.: Complete the work that is required to extend the life of the plant by metal repairs or replacement. The concrete plant is in good condition.
5. 5.d.: Complete all items listed as needing immediate attention. Some have already been addressed. The next quarterly report, due April 30, 2019 will give an update of all work completed.

Mr. Hillman has been working with the Public Service Commission (PSC) extensively to obtain a rate increase to further extend work at the facility. Once the decision on the rate increase has been settled, a budget will be set to make funds available to complete the items of the Consent Agreement in a timely manner. The agency will be updated on major advancement of the process but will also receive an additional quarterly report in April 2019.

North Peninsula Utilities WWTF  
Consent Agreement No.: 18-0258  
First Quarterly Report  
January 26, 2019  
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If you have any questions, you may reach me at the letterhead address or at (904) 307-6824.

Sincerely,



Mark Cadenhead, P. E., MBA, President  
Cadenhead Environmental Engineering Services, Inc.

cc: Mr. Robert Hillman, President, North Peninsula Utilities w/o attachments

NORTH PENINSULA UTILITIES CORPORATION		SCHEDULE NO. 1-A	
TEST YEAR ENDED 06/30/2018		DOCKET NO. 20180138-SU	
SCHEDULE OF WASTEWATER RATE BASE			
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUST. TO UTIL. BAL.	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	\$960,499	(\$31,357)	\$929,142
2. LAND & LAND RIGHTS	46,800	0	46,800
3. NON-USED AND USEFUL COMPONENTS	0	0	0
4. ACCUMULATED DEPRECIATION	(926,024)	297,684	(628,340)
5. CIAC	(640,994)	(731)	(641,725)
6. ACCUMULATED AMORTIZATION OF CIAC	640,994	21	641,015
7. WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>30,542</u>	<u>30,542</u>
8. WASTEWATER RATE BASE	<u>\$81,275</u>	<u>\$296,159</u>	<u>\$377,434</u>



NORTH PENINSULA UTILITIES CORPORATION		SCHEDULE NO. 1-B
TEST YEAR ENDED 06/30/2018		DOCKET NO. 20180138-SU
ADJUSTMENTS TO RATE BASE		
		<u>WASTEWATER</u>
	<u>UTILITY PLANT IN SERVICE</u>	
1.	To reflect appropriate plant in service.	(\$77,596)
2.	To reflect addition of new customer.	1,462
3.	To reflect an averaging adjustment.	(5,408)
4.	To reflect pro forma adjustment.	<u>50,185</u>
	Total	<u>(\$31,357)</u>
	<u>ACCUMULATED DEPRECIATION</u>	
1.	To reflect appropriate accumulated depreciation.	\$158,543
2.	To reflect addition of new customer.	(21)
3.	To reflect an averaging adjustment.	262
4.	To reflect pro forma adjustment.	<u>138,900</u>
	Total	<u>\$297,684</u>
	<u>CIAC</u>	
1.	To reflect addition for new customer.	(\$1,462)
2.	To reflect an averaging adjustment.	<u>731</u>
	Total	<u>(\$731)</u>
	<u>ACCUMULATED AMORTIZATION OF CIAC</u>	
1.	To reflect addition of new customer.	<u>\$21</u>
	<u>WORKING CAPITAL ALLOWANCE</u>	
1.	To reflect 1/8 of test year O&M expenses.	<u>\$30,542</u>

NORTH PENINSULA UTILITIES CORPORATION							SCHEDULE NO. 2		
TEST YEAR ENDED 06/30/2018							DOCKET NO. 20180138-SU		
SCHEDULE OF CAPITAL STRUCTURE									
CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUSTMENTS	BALANCE AFTER ADJUSTMENTS	PRO RATA ADJUSTMENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST	
1. COMMON STOCK	\$100	(\$100)	\$0	\$0	\$0				
2. RETAINED EARNINGS	(\$864,109)	\$864,109	\$0	\$0	\$0				
3. PAID IN CAPITAL	\$400	(\$400)	\$0	\$0	\$0				
4. OTHER COMMON EQUITY	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>				
<b>TOTAL COMMON EQUITY</b>	<b>(\$863,609)</b>	<b>\$863,609</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>0.00%</b>	<b>10.93%</b>	<b>0.00%</b>	
5. LONG-TERM DEBT	\$1,046,003	\$0	\$1,046,003	(\$668,569)	\$377,434				
6. SHORT-TERM DEBT	\$0	\$0	\$0	\$0	\$0				
7. PREFERRED STOCK	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>				
<b>TOTAL LONG TERM DEBT</b>	<b>\$1,046,003</b>	<b>\$0</b>	<b>\$1,046,003</b>	<b>(\$668,569)</b>	<b>\$377,434</b>	<b>100.00%</b>	<b>5.66%</b>	<b>5.66%</b>	
8. CUSTOMER DEPOSITS	\$0	\$0	\$0	\$0	\$0	0.00%	2.00%	0.00%	
9. <b>TOTAL</b>	<b><u>\$182,394</u></b>	<b><u>\$863,609</u></b>	<b><u>\$1,046,003</u></b>	<b><u>(\$668,569)</u></b>	<b><u>\$377,434</u></b>				
<b>RANGE OF REASONABLENESS</b>							<b><u>LOW</u></b>	<b><u>HIGH</u></b>	
RETURN ON EQUITY							9.93%	11.93%	
OVERALL RATE OF RETURN							5.66%	5.66%	

NORTH PENINSULA UTILITIES CORPORATION			SCHEDULE NO. 3-A		
TEST YEAR ENDED 06/30/2018			DOCKET NO. 20180138-SU		
SCHEDULE OF WASTEWATER OPERATING INCOME					
	TEST YEAR PER UTILITY	STAFF ADJUST- MENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$242,292</u>	<u>\$1,485</u>	<u>\$243,777</u>	<u>\$52,615</u> 21.58%	<u>\$296,392</u>
<b>OPERATING EXPENSES:</b>					
2. OPERATION & MAINTENANCE	\$240,005	\$5,471	\$245,476		\$245,476
3. DEPRECIATION (NET)	27,508	(19,996)	7,512		7,512
4. AMORTIZATION	0	0	0		0
5. TAXES OTHER THAN INCOME	18,653	1,020	19,673	2,368	22,041
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>		<u>0</u>
7. TOTAL OPERATING EXPENSES	\$286,166	(\$13,504)	\$272,661		\$275,029
8. OPERATING INCOME/(LOSS)	<u>(\$43,874)</u>		<u>(\$28,884)</u>		<u>\$21,363</u>
9. WASTEWATER RATE BASE	<u>\$81,275</u>		<u>\$377,434</u>		<u>\$377,434</u>
10. RATE OF RETURN	-53.98		-7.65%		5.66%

NORTH PENINSULA UTILITIES CORPORATION TEST YEAR ENDED 06/30/2018 ADJUSTMENTS TO OPERATING INCOME	SCHEDULE NO. 3-B DOCKET NO. 20180138-SU PAGE 1 OF 2
	<b><u>WASTEWATER</u></b>
<b>OPERATING REVENUES</b>	
1. To reflect the appropriate test year revenue.	<u>\$1,486</u>
<b>OPERATION AND MAINTENANCE EXPENSES</b>	
1. Purchased Power (715)	
a. To reflect removal of out of test year amounts.	(\$949)
b. To reflect removal of late fees.	<u>(33)</u>
Subtotal	<u>(\$981)</u>
2. Chemicals (718)	
To reflect removal of out of test year amounts.	<u>(\$389)</u>
3. Contractual Services - Other (736)	
a. To reflect adjustments to repairs per invoice.	\$95
b. To reflect pro forma plant expenses amortized over five years.	<u>6,958</u>
Subtotal	<u>\$7,053</u>
4. Insurance - General Liability (757)	
To reflect removal of late fees.	<u>(30)</u>
5. Regulatory Commission Expense (765)	
Allowance for rate case expense amortized over four years.	<u>\$1,140</u>
6. Miscellaneous Expenses (775)	
a. To reflect removal of interest payment.	(\$9)
b. To reflect removal of out of test year amounts.	<u>(\$1,313)</u>
Subtotal	<u>(\$1,321)</u>
<b>TOTAL OPERATION AND MAINTENANCE                  ADJUSTMENTS</b>	<b><u>\$5,471</u></b>

<b>NORTH PENINSULA UTILITIES CORPORATION</b>		<b>SCHEDULE NO. 3-B</b>
<b>TEST YEAR ENDED 06/30/2018</b>		<b>DOCKET NO. 20180138-SU</b>
<b>ADJUSTMENTS TO OPERATING INCOME</b>		<b>PAGE 2 OF 2</b>
		<b><u>WASTEWATER</u></b>
<b>DEPRECIATION EXPENSE</b>		
1.	To reflect the appropriate test year depreciation expense.	(\$22,910)
2.	To reflect CIAC depreciation.	42
3.	To reflect the amortization of CIAC.	(42)
4.	To reflect pro forma additions.	2,914
	Total	<b><u>(\$19,996)</u></b>
<b>TAXES OTHER THAN INCOME</b>		
1.	To reflect appropriate test year RAFs.	\$67
2.	To reflect property taxes associated with pro forma plant additions.	954
	Total	<b><u>\$1,020</u></b>
<b>TOTAL OPERATING EXPENSE ADJUSTMENTS</b>		<b><u>(\$13,504)</u></b>

NORTH PENINSULA UTILITIES CORPORATION		SCHEDULE NO. 3-C		
TEST YEAR ENDED 06/30/2018		DOCKET NO. 20180138-SU		
ANALYSIS OF WASTEWATER OPERATION AND MAINTENANCE EXPENSE				
Acct. #	Description	TOTAL PER UTILITY	STAFF ADJUST- MENT	TOTAL PER STAFF
711	Sludge Removal	\$22,860	\$0	\$22,860
715	Purchased Power	12,245	(981)	11,264
718	Chemicals	5,776	(389)	5,387
720	Materials and Supplies	613	0	613
731	Contractual Services - Engineering	800	0	800
732	Contractual Services - Accounting	4,500	0	4,500
733	Contractual Services - Legal	1,030	0	1,030
734	Contractual Services - Mgt. Fees	135,487	0	135,487
735	Contractual Services - Testing	12,588	0	12,588
736	Contractual Services - Other	34,788	7,053	41,841
757	Insurance - General Liability	2,252	(30)	2,222
765	Regulatory Commission Expense	0	1,140	1,140
775	Miscellaneous Expense	<u>7,066</u>	<u>(1,321)</u>	<u>5,744</u>
	<b>Total O &amp; M Expense</b>	<b><u>\$240,005</u></b>	<b><u>\$5,471</u></b>	<b><u>\$245,476</u></b>
	Working Capital is 1/8 of O&M Less RCE			\$30,542

NORTH PENINSULA UTILITIES CORPORATION		SCHEDULE NO. 4-A	
TEST YEAR ENDED 6/30/2018		DOCKET NO. 20180138-SU	
MONTHLY WASTEWATER RATES			
	RATES AT TIME OF FILING	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<b><u>Residential Flat Rate</u></b>			
Single Family Residential Homes	\$33.11	\$40.79	\$0.17
<b><u>General Service Flat Rate</u></b>			
Las Olas Townhomes	\$198.66	\$244.74	\$0.99
Ocean Air	\$562.87	\$693.43	\$2.82
Seabridge North	\$2,152.15	\$2,651.35	\$10.77
Seabridge South	\$2,317.70	\$2,855.30	\$11.60
Restaurant	\$449.76	\$571.06	\$2.32