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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20200194-PU

Petition for approval of regulatory assets to record costs incurred due to COVID-19, by Florida Public Utilities Company, Florida Public Utilities Company - Indiantown Division, Florida Public Utilities Company - Fort Meade, Florida Division of Chesapeake Utilities Corporation.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 6

COMMISSIONERS
PARTICIPATING: CHAIRMAN GARY F. CLARK
COMMISSIONER ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, October 6, 2020

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
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TALLAHASSEE, FLORIDA
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1 P R O C E E D I N G S

2 CHAIRMAN CLARK: All right. Moving to Item
3 No. 6, Mr. Futrell.

4 MR. FUTRELL: Good morning, Mr. Chairman,
5 Commissioners. Mark Futrell with the staff.

6 Item 6 is staff's recommendation on the
7 petition filed by the Florida Public Utilities
8 companies and the Florida Division of Chesapeake
9 Utilities Corporation for approval to establish
10 regulatory assets for each entity to report certain
11 costs incurred due to COVID-19. The companies have
12 requested approval to defer incremental bad debt
13 expense and safety related costs attributable to
14 COVID-19.

15 The approval to establish a regulatory asset
16 for accounting purposes does not limit the
17 Commission's ability to review the proposed
18 amounts, other related matters for reasonableness
19 in a future proceeding for potential recovery.

20 Staff recommends that the categories of costs
21 be limited as noted in the recommendation. Also,
22 staff recommends that the companies be ordered to
23 track any assistance or benefits received by the
24 companies in connection with COVID-19, regardless
25 of form or source, that would offset any COVID-19

1 related expenses.

2 In addition, the companies should be prepared
3 to explain what actions and efforts they have
4 undertaken to reduce or minimize these costs, and
5 to maximize the receipt of any available COVID-19
6 assistance or benefits.

7 Finally, staff recommends the companies be
8 required to file monthly reports with the
9 Commission identifying the amounts of COVID-19
10 costs incurred, any assistance or benefits received
11 and any cost savings realized. The first set of
12 COVID-19 reports will be due on December 1st, with
13 updated reports due every month thereafter until
14 the companies file for potential cost recovery.

15 The Office of Public Counsel would like to
16 address the Commission. Staff is available to
17 answer questions.

18 CHAIRMAN CLARK: Thank you very much, Mr.
19 Futrell.

20 Let's begin with FPU, Ms. Keating.

21 MS. KEATING: Good morning, Mr. Chairman and
22 Commissioners.

23 CHAIRMAN CLARK: Good morning.

24 MS. KEATING: Can you hear me okay?

25 CHAIRMAN CLARK: Yes, we can hear you fine.

1 MS. KEATING: Beth Keating with the Gunster
2 Law Firm here this morning for FPUC. Thank you for
3 this opportunity to address you on this item. Mike
4 Cassel, Derrick Craig and Michelle Napier with the
5 company are also on the line and available to
6 answer any questions that you might have.

7 Commissioners, just briefly. Like most of
8 Florida's utilities, the FPUC and Chesapeake
9 electric and gas division, which is will just refer
10 to as the company, suspended disconnects in March
11 in an effort to ease the burden on customers facing
12 increased economic burdens as a result of the COVID
13 pandemic.

14 Like the other utilities that you heard
15 earlier, the companies have worked hard to keep
16 their customers and employees safe, while their
17 customer care representatives have kept customers
18 informed and provided additional assistance to
19 customers in need through payment plans and
20 guidance to additional resources for payment
21 assistance.

22 The companies fully appreciate the impacts
23 that COVID has had, and continues to have, on many
24 of its customers' lives and finances. As such,
25 Commissioners, upon reflection, the companies agree

1 with your staff's recommendation as it relates to
2 the establishment of the requested regulatory
3 asset, including staff's recommendation that lost
4 revenues in the form of uncollected late fee
5 revenues is not appropriate under these
6 circumstances.

7 Establishing regulatory assets for bad debt
8 and for incremental safety costs, though, just
9 makes sense. It will provide an appropriate
10 accounting mechanism for the companies to track
11 their costs and a platform for the Commission's
12 subsequent review and determination as to which and
13 how much of these costs are appropriate for
14 recovery through base rate.

15 Commissioners, for these reasons, we ask that
16 you approve your staff's recommendation, and we are
17 here to answer any questions that you might have.

18 CHAIRMAN CLARK: Thank you, Ms. Keating.
19 Ms. Christensen.

20 MS. CHRISTENSEN: Good morning again,
21 Commissioners. Patty Christensen with the Office
22 of Public Counsel.

23 We have several points that we would like to
24 make for the record. We would like to echo several
25 of the points made by my colleagues in prior

1 COVID-19 regulatory asset dockets.

2 We agree that this request for regulatory
3 asset is a substantial decision being made by the
4 Commission that requires a point of entry be
5 granted to the parties to protest any decision by
6 the Commission as staff has recognized in their
7 prior recommendation. As such, we believe that
8 FPUC's petition for a regulatory asset is neither
9 preliminary or procedural. We believe that before
10 the Commission approves the creation of a
11 regulatory asset for any COVID-19 related costs,
12 the Commission should require an evidentiary basis
13 for such approval.

14 This petition and this recommendation lacks
15 any demonstration or analysis of the financial
16 integrity issues that the utilities which could
17 make the creation of a regulatory asset necessary.

18 Other than asserting additional costs were
19 incurred by the utility, which they say are related
20 to COVID-10, such as increased bad debt, safety
21 costs for PPE, testing and other similar type
22 equipment, and lost revenue, no allegation was made
23 that the company was earning below its authorized
24 range. And if it was earning below, by how much?

25 The rationale in the recommendation for

1 granting the regulatory asset is that the concept
2 of deferral accounting allows companies to defer
3 costs due to events beyond their control and seek
4 recovery for rates at a later time. If the subject
5 costs are significant, the alternative would be for
6 a company to seek a rate proceeding each time it
7 experiences and documents events.

8 To determine if these events are significant
9 in the impact on the company, there needs to be
10 evidence regarding the impact to the company's
11 earnings. If the company is earning within its
12 range, the costs are not significant enough to
13 require a rate case and any form of rate relief,
14 thus, defeating the need for regulatory asset.

15 Even if the company earns below the authorized
16 range, the Commission should determine what portion
17 of these costs are causing them to earn below the
18 authorized range, because any portion of the cost
19 that does not cause the company to earn below their
20 range are being recovered even if the company is
21 still earning a fair rate of return.

22 This request also assumes that FPUC's
23 customers should be the only ones that should bear
24 the costs of COVID-19, specifically those customers
25 who are paying their bills and living with the

1 impacts of COVID-19. This is unfair, especially
2 when the company has made no showing that it's
3 earnings -- that it's earning below its range, nor
4 that it has made efforts to reduce or control
5 costs.

6 The establishment of a regulatory asset
7 requires the probable, if likely, recovery of most,
8 if not all of the amount accrued for the regulatory
9 asset. This must be based on competent and
10 substantial evidence at a minimum, that these costs
11 are appropriately recoverable as COVID-19 related
12 costs, and what, if any, is the financial need for
13 the regulatory asset which has not even been
14 alleged in this case.

15 Thus, OPC objects to granting this request to
16 establish a COVID-19 regulatory asset at this time.
17 However, notwithstanding our objection, we agree
18 with the recommendation that lost revenue is an
19 inappropriate category to be included within
20 regulatory assets. We also agree that if any
21 regulatory asset is granted related to COVID-19
22 costs, the COVID-19 related costs and any offsets
23 should be recorded and maintained in a detailed
24 manner and provided monthly.

25 We also agree that the companies should be

1 taking advantage of and making all reasonable
2 efforts to reduce these types of COVID-19 related
3 costs.

4 Thank you, and OPC is available for any
5 questions.

6 CHAIRMAN CLARK: Thank you, Ms. Christensen.

7 Commissioners, any questions?

8 Commissioner Graham.

9 COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

10 My question is to staff.

11 We got these monthly reports coming in for
12 this regulatory asset. Is it possible if we find
13 something in the reports that we don't think in
14 those regulatory asset to actually remove them
15 prior to a rate case? And if so, how do we go
16 about doing that?

17 CHAIRMAN CLARK: Mr. Futrell.

18 MR. FUTRELL: I am going to ask Mr. Maurey to
19 address that question.

20 MR. MAUREY: Good morning, Commissioners,
21 Andrew Maurey.

22 I don't believe we have that ability to -- to
23 pull things out incrementally over time. It would
24 be better to look at it at the end. But getting
25 the parties -- the Commission's expectations up

1 front should help narrow what is recorded in the
2 regulatory assets.

3 COMMISSIONER GRAHAM: Well, then what is the
4 purpose of the monthly reports if there is nothing
5 we can do with them?

6 MR. MAUREY: Well, I don't think there is
7 nothing we can do with them. We can monitor what
8 is being accrued. We can see how it grows over
9 time that they are going to record them each month,
10 and then when we do get to the hearing, if there
11 are irregularities, we can ask about them. It will
12 help for discovery to know how these amounts grew
13 regularly over time as opposed to just one lump sum
14 at the end.

15 COMMISSIONER GRAHAM: Well, I'm not all that
16 familiar with Wall Street. What happens if one of
17 our utilities shows up with a \$300 million
18 regulatory asset and we decide that two-thirds of
19 it is not prudent and now we cut it 50 percent, how
20 does Wall Street react to something like that as
21 they are going into a rate case -- or actually as
22 they are in a rate case?

23 MR. MAUREY: That's an extreme example, but I
24 believe the investment community is looking
25 favorably upon the creation of regulatory assets in

1 general, because it's recognizing the essential
2 nature of these businesses, that these costs are
3 being tracked for potential recovery.

4 Now if a particular utility failed to follow
5 the Commission's expectations or guidance and put
6 too much into that regulatory asset and it was
7 later disallowed, I don't see that how could be
8 viewed unfavorably on the Commission. That would
9 upon the -- the company that took those actions.

10 COMMISSIONER GRAHAM: Okay. Thank you.

11 CHAIRMAN CLARK: I guess to expand on
12 Commissioner Graham's question, give us some
13 examples, Mr. Maurey, of the types of items that
14 would be included as a regulatory asset and as
15 opposed to items that you might just expend. Can
16 you share some just common examples of what a
17 utility would record?

18 MR. MAUREY: Yes. Thank you.

19 With respect to incremental bad debt, we are
20 looking at -- and the companies have all offered
21 this in their petitions, that they will look at the
22 levels of bad debt in a given month over a
23 three-year period and compare it to what the bad
24 debt was in a subject month, and thereby
25 determining what incremental bad debt regarding

1 COVID.

2 That doesn't include, as you have heard
3 earlier today, late fees, or reconnection charges,
4 or disconnection charges. All of that is waived.
5 So it's just incremental bad debt that arose as a
6 result of the pressures of COVID-19.

7 With regard to safety related costs, the
8 initial petitions focused on expenditures
9 associated with testing and monitoring employees,
10 the purchase of personal protective equipment, like
11 masks and gloves, incremental amounts related to
12 sanitation efforts and other safety protocols
13 recommended by the CDC. What might not be included
14 are -- are some other items.

15 That list could be lengthy, but those are the
16 items that we are looking for. Those are the
17 expectations we believe the Commission has what
18 would be included under safety related costs.

19 CHAIRMAN CLARK: And again, you are -- you
20 keep using the term "incremental". They have a
21 traditional historical budgeted amount, spent
22 amount, looking back over the last three years, and
23 so what you are actually looking at and potentially
24 recording here is the new costs, additional costs
25 that were strictly related to COVID-19, correct?

1 MR. MAUREY: Absolutely. That's a very good
2 point. Incremental costs, yes.

3 CHAIRMAN CLARK: Okay. Commissioners, other
4 questions?

5 Commissioner Fay.

6 COMMISSIONER FAY: Thank you, Mr. Chairman.

7 It may be more of a comment. I may ask a
8 point of clarification from staff, but, you know,
9 we take all these items individually as they are
10 proposed to the Commission; however, you can't help
11 but sort of recognize the big picture of these
12 regulatory assets and the different utilities that
13 we are seeing them come in from, the reality that
14 states all over the country are dealing with this
15 and trying to figure out the best way to move
16 forward.

17 I have been educated by our staff on -- on
18 these, and have evolved kind of my understanding.
19 I mean, I think there -- the consensus, for the
20 most part, is that you have got this initial
21 creation of the asset, and there is some discussion
22 as to what is included or excluded for that
23 portion. And on the back end, there is some more
24 specifics related to the prudence analysis, and I
25 think both of those make sense.

1 I do feel that it's helpful to recognize
2 some -- some boundaries, some basis or foundation
3 for going forward with the utilities to submit that
4 form on the second part of our analysis. And I
5 think Commissioner Brown and the parties have
6 pointed out, these may be directed toward rate
7 cases and resolved under that nature, in which case
8 it's still helpful to provide some of that
9 guidance.

10 So I -- I do support staff's recommendation,
11 and I think it's significant that the
12 recommendation and -- and both of the parties
13 speaking on this today recognize that lost revenues
14 is not an appropriate thing to include in this
15 calculation. And so I know that each one of these
16 will come with their specifics and the Commission
17 will make an analysis on that.

18 I do think it's important that there is some
19 recognition that incremental bad debt is a
20 significant component of those coming forward. I
21 think the markets recognize that, and I think there
22 is some real value in Florida moving swiftly like
23 we've done on those.

24 I think the safety components are important,
25 and I think they are valid in this analysis. And I

1 think the lost revenue components maybe could be
2 persuasive, but it's very unlikely at this point,
3 at least for me, to include those. And I think
4 some of that structure is helpful for the utilities
5 to understand what they could submit going forward
6 so they have some direction from -- from us. I am
7 one of five, but I do think that's helpful as we
8 move forward with these.

9 So those are my comments, Mr. Chair. I'm
10 happy to move it, but I am sure there -- there are
11 other comments here.

12 CHAIRMAN CLARK: Thank you, Commissioner Fay.
13 Commissioner Polmann.

14 COMMISSIONER POLMANN: Thank you, Mr.
15 Chairman.

16 I gather from the -- from the comments from
17 Ms. Christensen, and -- and some of the discussion
18 here, that one of the primary factors with this
19 item is what exactly goes into the regulatory
20 asset? And I am trying to understand whether there
21 is an opportunity for that list to be fluid, if you
22 will, if the argument about the creation of the
23 regulatory asset encompasses the full breadth of
24 the components of the regulatory asset.

25 So the notion of issuing it as a PAA, creating

1 a point of entry, enables the discussion and -- and
2 I will say the dispute over what items, if you
3 will, go into the asset, and that that then is
4 fixed, which is distinct from the -- from the idea
5 that you have incremental costs, but it's by
6 category.

7 So can anyone address that? Is -- is that the
8 nature of the question, or is the incremental
9 nature that, well, we don't know exactly what's
10 going to go into it, but we will decide that and we
11 will report, and then maybe back to Commissioner
12 Graham's question. So we are getting a report on
13 this, and then what do we do with it? Do we allow
14 things to come in, or not --

15 CHAIRMAN CLARK: Mr. Maurey --

16 COMMISSIONER POLMANN: -- is there any comment
17 by staff on --

18 CHAIRMAN CLARK: Mr. Maurey, would you like to
19 address that?

20 MR. MAUREY: Yes, I will -- I will make an
21 attempt.

22 We are trying, with this recommendation, to --
23 to express those expectations. If you go back to
24 the very first petition with Gulf, it was limited
25 to incremental bad debt resulting from the COVID

1 pandemic, and incremental safety related costs, and
2 there was a list.

3 Now, over time, the definition with each
4 subsequent applicant, the definition of what was
5 included in dad debt expense could have expanded,
6 and the definition of what might qualify as safety
7 related costs certainly expanded.

8 So we are trying, in this attempt, in this
9 recommendation to narrow that. It's ultimately the
10 Commission's judgment what's appropriate for
11 recovery, but it's always been the burden of the
12 company to demonstrate not only that the subject
13 costs are appropriate for recovery, but also that
14 the amounts incurred are reasonable. That burden
15 has never shifted. It's always been on them, and
16 it always will be on them, but it will ultimately
17 be the Commission's judgment at the end whether
18 that occurs-ed, whether what they said they were
19 going to put in there and the amounts, because all
20 of them have mentioned that they don't know when
21 this pandemic will end. They don't know if it's
22 going to ramp down, or ramp up, and how these costs
23 might change over time, or how long time might
24 actually be.

25 So it's difficult to -- to get a handle on

1 those factors, but we believe -- staff believes the
2 recommendation as framed is trying to put those
3 expectations into greater relief, and that the
4 companies will abide by them.

5 CHAIRMAN CLARK: Thank you, Mr. Maurey.

6 COMMISSIONER POLMANN: Mr. Chairman, I
7 appreciate that explanation. My concern, and then
8 perhaps it supports the notion that this is a PAA
9 and subject to, I will simply call it a challenge,
10 as Mr. Maurey indicated, in the first instance, the
11 first occurrence, there was very explicit two
12 categories of costs that were included, and that we
13 have an evolving situation. And I will make a
14 distinction between if we have a category of costs
15 and then over time, and with an unknown end point
16 in time, that the costs accumulate, and then the
17 prudence issue is tested at the end within the
18 category of costs, that's one issue. A separate
19 issue is, you have a regulatory asset, but you
20 continue over time to add different types of costs.

21 Those are two distinctly different things.
22 And I see that as a significant item subject to
23 dispute. We seem more reasonable to have that --
24 have that discussion on the front end rather than
25 the back end.

1 But I don't know that there is an answer to
2 that today, but I certainly understand the concern
3 that's being raised by OPC. I just want -- I just
4 want to respect that concern.

5 Thank you, Mr. Chairman.

6 CHAIRMAN CLARK: Thank you, Commissioner
7 Polmann.

8 Other questions?

9 Commissioner Brown.

10 COMMISSIONER BROWN: I do appreciate the
11 dialogue, Commissioners, so thank you so much for
12 your questions. They have been really great.

13 I just wanted to be clear -- to make clear
14 that staff is not recommending inclusion of hazard
15 pay in this request, as they say, you know, safety
16 related costs, so I just wanted that on the record.

17 CHAIRMAN CLARK: That is correct. Yes.

18 COMMISSIONER BROWN: Thank you.

19 CHAIRMAN CLARK: All right. We will entertain
20 a motion.

21 COMMISSIONER FAY: Mr. Chairman, I would move
22 staff recommendation on all issues.

23 CHAIRMAN CLARK: Thank you, Commissioner Fay.

24 Do I have a second?

25 Commissioner Brown seconds the motion.

1 COMMISSIONER BROWN: Second.

2 CHAIRMAN CLARK: Any discussion?

3 All in favor say aye.

4 (Chorus of ayes.)

5 CHAIRMAN CLARK: Opposed?

6 (No response.)

7 CHAIRMAN CLARK: Motion carries.

8 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
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I FURTHER CERTIFY that I am not a relative,
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DATED this 19th day of October, 2020.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024