

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20200139-WS

REBUTTAL TESTIMONY

OF

FRANK SEIDMAN

on behalf of

Utilities, Inc. of Florida

1 **Q. Please state your, name profession and address.**

2 A. My name is Frank Seidman, dba Management and Regulatory Consultants, consultants in
3 the utility regulatory field. My address is 36 Yacht Club Dr., North Palm Beach, FL 33408.

4 **Q. Did you prefile direct testimony in this proceeding?**

5 A. Yes.

6 **Q. What is the purpose of your rebuttal testimony?**

7 A. The purpose of my rebuttal testimony is to rebut portions of the prefiled testimony of
8 Office of Public Counsel (OPC) witness Frank W. Radigan with regard to his determination
9 of Used & Useful (U&U) for the Mid-County, Labrador, Lake Placid, and LUSI – Lake
10 Groves wastewater plants.

11 **Q. Are you sponsoring any additional exhibits?**

12 A. Yes, I am sponsoring Exhibit FS-4, Recalculation of U&U for LUSI - Lake Groves
13 Wastewater Plant.

14 MID-COUNTY

15 **Q. Mr. Radigan has proposed that the used and useful for the Mid-County be set at the
16 93.67% level approved in the last rate case. Do you agree?**

17 A. No. In this case, the used and useful was determined to be greater than 100% using the
18 formulae for calculating used and useful in Commission rules. On its face, the system is
19 100% used and useful.

20 **Q. Then why is Mr. Radigan arguing against this conclusion?**

21 A. The 2019 TY was a wet year in which some monthly average daily flows (MADF)
22 exceeded plant capacity, skewing the resulting average annual daily flows (AADF). He
23 apparently believes this is an anomaly and we should look to averages of past years or
24 perhaps disregard the high monthly flows.

25

1 **Q. Is it unusual for the MADF at Mid-County to exceed plant capacity?**

2 A. No, it is quite common. I looked at the past seven years using the same information cited
3 by Mr. Radigan, UIF's response to OPC's Interrog. 125, (which he refers to as Interrog.
4 122 in his testimony). The MADF exceeded plant capacity once in 2013 and 2017, twice
5 in 2016 and 2018, and three times in 2015 and the 2019 TY. Commission Rule 25-30.432,
6 F.A.C., requires that used and useful be calculated on the same period basis as the
7 permitted capacity. The Mid-County plant is permitted on an annual average daily flow
8 basis and that is what has been done in this filing. In the past, the Commission has not
9 adjusted the AADF for high monthly flows; there is no reason to do so here simply because
10 the result generates a percentage used and useful value that is greater than OPC would
11 prefer.

12 **Q. Mr. Radigan also thinks the Commission should consider the impact of Inflow &**
13 **Infiltration (I&I). Doesn't the Commission already do that?**

14 A. Yes, for many years, such an evaluation has been a component of the rate filing. In this
15 filing it is found at page 80 of my prefiled testimony and exhibits. The analysis shows that,
16 on an annual basis, I&I is not excessive. Regardless of Mr. Radigan's inference that I&I
17 may have been excessive in high months, the Commission is evaluating I&I and U&U on
18 a full test year basis. Mr. Radigan has reviewed my calculations and agrees with them. See
19 page 22 of his prefiled testimony. The Mid-County wastewater plant is clearly fully utilized
20 and should be considered 100% U&U.

21 LABRADOR

22 **Q. As with Mid-County, Mr. Radigan has proposed that the used and useful percentage**
23 **for the Labrador wastewater plant be left at 79.94% as determined in the last rate**
24 **case. Do you agree?**

25 A. No. In previous cases, the utility has argued that the Labrador wastewater plant be

1 considered 100% U&U because the system is built out. In Docket No. 20140135-WS the
2 Commission concluded that the system is not built out because a remaining 11.6-acre
3 parcel had potential for development. That conclusion was echoed in the last case, Docket
4 No. 20160101-WS. However, in this test year, that parcel is being developed to its full
5 potential. The developer has signed an agreement with the utility to provide service and
6 the developer has indicated that all units in the development will be completed within five
7 years. The concern preventing the Commission from recognizing that the plant be
8 considered 100% U&U is moot because the service area is now built out.

9 **Q. Then why is Mr. Radigan taking issue with that conclusion?**

10 A. Primarily because the calculated U&U does not reach 100% and because, there is allegedly
11 developable land outside the Utility service area into which it could expand.

12 **Q. Please address the issue of calculated U&U.**

13 A. The utility's position of considering the Labrador plant's U&U to be 100% has never been
14 based on calculated U&U. The utility and the commission are both aware that the
15 calculated U&U falls well below 100%, and in fact, keeps dropping as customers conserve.
16 The position has always been that the system, which serves a closed mobile home
17 community, is built out and the Commission's wastewater Rule 25-30.432, F.A.C.,
18 includes among the factors the Commission will consider, "the extent to which the area
19 served by the plant is built out." Additionally, the plant is properly sized to serve this
20 community, even though the actual use by customers falls well below good design
21 requirements.

22 **Q. Please address the issue of serving outside the service area?**

23 A. There is no authority in the rules for the Commission to consider whether there is potential
24 for the utility to look outside its service area as it regards wastewater service. Nevertheless,
25 the utility is aware that there is undeveloped land outside its service area and has explored

1 the possibility of expansion. The area to the east is protected and not developable. The
2 adjacent areas to the north, west and south fall within the authority of the City of
3 Zephyrhills to serve, should they choose to do. The City has already built a force main and
4 lift station to bring service within a few hundred feet of the Labrador service area. If there
5 were any reasonable expectation that Labrador could serve this area, it would have already
6 pursued it. The fact is the Labrador service area is built out and the plant should be
7 considered 100% used and useful.

8

9 LAKE PLACID

10 **Q. Mr. Radigan proposes that the used and useful for the Lake Placid wastewater plant**
11 **remain at the percentage allowed by the Commission in the last rate case. Do you**
12 **agree?**

13 A. No. For reasons similar to those applicable to Labrador, the system is built out. The Lake
14 Placid wastewater plant was built in 1974 to serve Sun ‘N Lake Estates of Lake Placid, a
15 subdivision in Highlands County with 2 single family lots, 2 condominiums, a motel and a
16 golf and country club. The existing treatment plant was designed to serve the motel, country
17 club and additional future sections of homes to be developed and built in phases. This did
18 not, and will not, occur because the portion of the service area planned for future
19 development in the 1970’s subsequently was designated as a protected scrub jay habitat that
20 permanently eliminated the customer growth that would have otherwise occurred in that
21 area. Thus, the developer installed mains to serve only 148 lots, of which 136 are occupied,
22 the 2 condominium buildings, the motel and country club, then stopped. In fact, shortly after
23 the area was designated a protected area, the developer transferred its assets, and the
24 development went into bankruptcy. The Commission recognized the effects of the
25 environmental limitations as far back as 1996 in Docket No. 951027-WS. Order No. PSC-

1 96-0910-FOF-WS, which states: “The area is completely built out. Further growth will most
2 likely be limited due to environmental concerns. An endangered bird and an endangered
3 plant have been discovered on the land and in the area. Therefore, the area has been, for the
4 most part, set aside or abandoned for construction purpose.” The bird species referenced in
5 this Order is the Florida scrub-jay, the only bird whose habitat is limited to low-growing
6 scrub oaks and scrubby flatwoods in sandy soils in Florida. It is, therefore, extremely
7 unlikely that the Lake Placid system will ever reach the level of growth anticipated when
8 the plant was first built in 1974. The original plant is long past its depreciable life, but the
9 ability of the utility to earn on the improvements necessary to keep it operating are severely
10 hampered by the application of a calculated non-used and useful adjustment that fails to
11 recognize that the service area is built out. In accordance with the considerations available
12 in the wastewater rule, the Lake Placid wastewater plant should be considered 100% used
13 and useful.

14 LUSI – LAKE GROVES

15 **Q. Mr. Radigan believes the utility’s determination of the used and useful of the LUSI**
16 **Lake Grove wastewater plant is overstated because of the inclusion of lots for which**
17 **CIAC has been prepaid. In addition, he infers that this is effectively double counting,**
18 **which he states has been addressed in a recent court decision he references concerning**
19 **the last rate case, Docket No. 20160101-WS. Do you agree?**

20 . A. No. Mr. Radigan is correct that the issue of including flows from prepaid connections and
21 double counting have been addressed. But I do not agree that the manner in which the flows
22 associated with prepaid connections in this case is contrary to that court opinion.

23 **Q. What does the court say about prepaid connections and double counting?**

24 A. In Docket No. 20160101-WS, the Commission and the utility agreed that prepaid
25 connections represented committed capacity and should be considered in addition to the

1 growth allowance. The court disagreed and said that prepaid connections should be
2 considered as just another factor in determining the growth allowance using what it
3 referred to as the “statutory limits of the Five Year/Five Percent Law.” The court also
4 indicated that it was not in a position to evaluate whether giving recognition to the prepaid
5 connections resulted in double counting.

6 **Q Did the utility consider prepaid connections in the manner described by the court?**

7 A. Yes.

8 **Q. Did the utility take precautions to prevent double counting?**

9 A. Yes.

10 **Q. Would you please describe how you went about using prepaid connections in**
11 **determining growth allowance?**

12 A. On page 193 of my prefiled testimony and exhibits, I calculated the five-year growth based
13 on a linear regression of historical data for the test year and four previous years, in
14 accordance with Commission rules. I then transferred that to page 193 of my prefiled
15 testimony and exhibits where the calculation is made of the number of gallons per day
16 (gpd) to be considered in the growth allowance. Also, on page 193, I discuss the prepaid
17 connections from a new area that had not been served during the test year but are
18 anticipated to be connected in the next five years. Since they are to be served in a new area,
19 they are not reflected in determination of historical growth and are additive and not double
20 counted.

21 **Q. Mr. Radigan states that by adding the two results together it will exceed the 967**
22 **undeveloped lots on the system. Is that correct?**

23 A. No. The 967 lots referred to is the number of remaining unserved prepaid connections in
24 the new area, not the remaining unserved lots in the system.

25

1 **Q. Mr. Radigan states that the allowance for growth used by the utility will exceed the**
2 **5% per year limit. Is that correct.**

3 A. Yes. In that conclusion he is correct. I calculated the anticipated five-year growth but failed
4 to test that against the 5% per year limit. When adjusted to limit the growth allowance to
5 5% per year, the calculated U&U is reduced from the 72% shown on page 188 of my
6 prefiled testimony and exhibits to 70%. The calculations are shown Exhibit FS-4.

7 **Q. Does that conclude your rebuttal testimony?**

8 A. Yes.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in water and) Docket No. 20200139-WS
Wastewater rates in Charlotte, Highlands,)
Lake, Lee, Marion, Orange, Pasco, Pinellas,)
Polk and Seminole Counties by Utilities, Inc.)
Of Florida.)

EXHIBIT (FS-4) _____

OF

FRANK SEIDMAN

on behalf of

Utilities, Inc. of Florida

Used and Useful Calculations
 Wastewater Treatment Plant

Company: Utilities Inc. of Florida - Lake Utilities Services. Excl. Four Lakes & Lake Saunders Schedule F-6
 Docket No.: 20200139-WS Page 1 of 2
 Historical Year Ended: December 31, 2019 Preparer: Seidman, F.

Explanation: Provide all calculations, analyses and governmental requirements used to determine the used and useful percentages for the wastewater treatment plant(s) for the historical test year and the projected test year (if applicable).

Recap Schedules: A-6,A-10,B-14

| <u>Line No.</u> | LAKE GROVES | |
|-----------------|--|-----------------|
| 1 | (A) Used and useful flow, GPD | |
| 2 | AADF | 547,022 |
| | Less: Excessive I&I (from Sch. F-6, page 2) | <u>0</u> |
| | Net Used and useful flow, GPD | <u>547,022</u> |
| 3 | (B) Property needed for post test year period (See F-8) | 151,132 |
| 4 | (C) Permitted capacity | <u>999,000</u> |
| 5 | (D) Used and useful percentage | <u>70.00</u> % |
| 6 | (D1) | <u>100.00</u> % |
| 7 | (E) Non-used and useful percentage | <u>30.00</u> % |
| 8 | (E1) | <u>0.00</u> % |

The above used and useful percentage is applicable to Treatment and Disposal accounts except reuse accounts. All Reuse, Pumping, Intangible and General Plant is considered 100% Used & Useful.

Margin Reserve Calculations - Historic

Company: Utilities Inc. of Florida - Lake Utilities Services
Docket No.: 20200139-WS
Historical Year Ended: December 31, 2019

Schedule F-8
Page 1 of 1
Preparer: Seidman, F.

Explanation: If a margin reserve is requested, provide all calculations and analyses used to determine the amount of margin reserve for each portion of used and useful plant.

Recap Schedules: F-5,F-6,F-7

Water Source, Pumping, Treatment & Storage - Combined Excl. Four Lakes & Lake Saunders

$$PN = EG \times PT \times U$$

where:

| | | |
|------|--|------------------------|
| EG = | Equivalent annual growth in ERCs (Sch. F-9) | 442.86 ERCs/yr |
| PT = | Post test year period per statute | 5 yrs |
| U = | Unit of measure utilized in U&U calculations (Sch. F-3, F-9) | 671.52 max day gpd/ERC |
| PN = | Property needed expressed in U units | 1,486,931 gpd |

NOTE: $U = T/A$, where:

T = TY Max Day gallons (from Sch. F-3)
A = TY Total ERCs (from Sch. F-9)

Water Source, Pumping, Treatment & Storage - Four Lakes & Lake Saunders

In Docket No. 100426-WS, the Commission found the Four Lakes and Lake Saunders system to be built out with no growth. There is no growth margin.

Wastewater Treatment & Disposal - Lake Groves

$$PN = EG \times PT \times U$$

where:

| | | |
|------|---|------------------------|
| EG = | Equivalent annual growth in ERCs (Sch. F-10) at 5%/yr limit | 228.75 ERCs/yr |
| PT = | Post test year period per statute | 5 yrs |
| U = | Unit of measure utilized in U&U calculations (Sch. F-2, F-10) | 132.14 avg day gpd/ERC |
| PN = | Property needed expressed in U units | 151,132 gpd |

NOTE: $U = T/A$, where:

T = TY treated gallons (from Sch. F-2)
A = TY Total ERCs (from Sch. F-10)

In addition, there are prepaid lots not served in 2019. New phases of development have opened up in the Lake Groves service area, of which 967 had not connected at the end of the 2019TY. During 2019, the average SFRs increased by 351 (from F-10.) LUSI indicates that they average 30 new taps per month in 2020, which is consistent with the past year growth. At that rate, the prepaid connections will be connected within 3 years. Regression analyses reflects a trend of only 151.19 ERCs growth per year. To better reflect actual new growth being experienced, adjust by $(360-151.19) = 208.81$ Eracs/yr for 2.69 yrs = 560.89 prepaid lots in the 5 year period.

Equivalent Residential Connections - Wastewater

Company: Utilities Inc. of Florida - Lake Utilities Services. Excl. Four Lakes & Lake Saunders
 Docket No.: 20200139-WS
 Historical Year Ended: December 31, 2019

Schedule F-10
 Page 1 of 1
 Preparer: Seidman, F.

LAKE GROVE PLANT

Explanation: Provide the following information in order to calculate the average growth in ERCs for the last five years, including the test year. If the utility does not have single-family residential (SFR) customers, the largest customer class should be used as a substitute.

| Line No. | (1) Year | (2) SFR Customers | | | (5) SFR Gallons Sold | (6) Gallons/SFR (5)/(4) | (7) Total Gallons Sold | (8) Total ERCs (7)/(6) | (9) Annual % Incr. in ERCs |
|----------|-------------|-------------------|--------|---------|-------------------------|----------------------------|---------------------------|---|-------------------------------|
| | | Beginning | Ending | Average | | | | | |
| 1 | 2015 | 3,164 | 3,325 | 3,245 | 348,872,774 | 107,527 | 369,110,368 | 3,433 | |
| 2 | 2016 | 3,325 | 3,328 | 3,327 | 357,534,935 | 107,481 | 380,237,455 | 3,538 | 3.06% |
| 3 | 2017 | 3,328 | 3,472 | 3,400 | 374,595,333 | 110,175 | 397,785,893 | 3,610 | 2.06% |
| 4 | 2018 | 3,472 | 3,706 | 3,589 | 419,172,184 | 116,794 | 446,164,554 | 3,820 | 5.81% |
| 5 | 2019 | 3,706 | 4,173 | 3,940 | 490,222,001 | 124,438 | 515,142,391 | 4,140 | 8.37% |
| | | | | | | | | Average Growth Through 5-Year Period (Col. 8) | |
| | | | | | | | | <u>4.82%</u> | |

NOTE: The above history of gallons is the gallons used by wastewater customers, not the gallons billed (and capped). Gallons billed was not used because there is not a history readily available. Also, gallons billed reflects an arbitrary cap and is not necessarily indicative of gallons treated.

Regression Analysis per Rule 25-30.431(2)(C)

| | X | Y | Year |
|----------------|-------------|----|-----------------------|
| Constant: | 3199.209705 | 1 | 3,433 Actual |
| X Coefficient: | 169.6498757 | 2 | 3,538 Actual |
| R^2: | 0.918710328 | 3 | 3,610 Actual |
| | | 4 | 3,820 Actual |
| | | 5 | 4,140 Actual |
| | | 10 | 4,896 Hist TY + 5 yrs |

| HISTORIC | |
|--|------------|
| Five year growth per regression equation: | 756 ERCs |
| Plus prepaid connections from Sch. F-8 not included in historic trend. | <u>561</u> |
| | 1,317 ERCs |
| Five year growth per 5% per year maximum used in Sch. F-8 calculation. | 1,144 ERCs |

Reconciliation of Water Gallons Sold to WW Customers shown in Schedules F-10 and E-2:

The total water gallons sold to wastewater customers, shown above is 463,627,836. The total water gallons sold to wastewater customers shown on Schedule E-2 is 463,760,000. The difference is 132,164 gallons or only .0285% of the amount shown on E-2. This is due to the fact that the amount on F-10 is the sum of actual readings whereas the amount on E-2 is taken from the billing analysis which is rounded to the nearest 1,000 gallons.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished
by E-mail to the following parties this 14th day of December, 2020:

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