

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

FILED: January 5, 2021

**PRE-HEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL**

The Citizens of the State of Florida, through the Office of Public Counsel (“OPC”), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2020-0327-PCO-WS, issued September 28, 2020, hereby submit this Prehearing Statement.

**APPEARANCES:**

J.R. Kelly  
Public Counsel

Stephanie Morse  
Associate Public Counsel

Anastacia Pirrello  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
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On behalf of the Citizens of the State of Florida

A. **WITNESSES:**

<u>Witness</u>	<u>Subject Matter</u>	<u>Issue Numbers</u>
<u>Direct</u>		
Andrea C. Crane	Revenue Requirements	2, 3, 4, 12, 13, 14, 16, 23, 24, 26, 27, 29, 30, 31, 32, 33, 40, 41,
David J. Garrett	Cost of Capital and Capital Structure	18, 19, 20, 21, 22,
Frank W. Radigan	Engineering, Pro forma plant additions, non-used	2, 3, 5, 6, 7, 9,

	and useful plant, unaccounted-for water and Infiltration and Inflow	
Sarah Lewis	Customer Complaints	1

B. EXHIBITS:

Witness	Proffered By	Exhibit No.	Description
Andrea C. Crane	OPC	ACC-1	Resume and List of Prior Testimonies
Andrea C. Crane	OPC	ACC-2	Supporting Schedules-Water Utility
Andrea C. Crane	OPC	ACC-3	Supporting Schedules-Sewer Utility
David J. Garrett	OPC	DJG-1	Curriculum Vitae
David J. Garrett	OPC	DJG-2	Proxy Group Summary
David J. Garrett	OPC	DJG-3	DCF Stock Prices
David J. Garrett	OPC	DJG-4	DCF Dividend Yields
David J. Garrett	OPC	DJG-5	DCF Terminal Growth Determinants
David J. Garrett	OPC	DJG-6	DCF Final Results
David J. Garrett	OPC	DJG-7	CAPM Risk-Free Rate
David J. Garrett	OPC	DJG-8	CAPM Betas
David J. Garrett	OPC	DJG-9	CAPM Implied Equity Risk Premium Calculation
David J. Garrett	OPC	DJG-10	CAPM Equity Risk Premium Results
David J. Garrett	OPC	DJG-11	CAPM Final Results
David J. Garrett	OPC	DJG-12	Cost of Equity Summary
David J. Garrett	OPC	DJG-13	Market Cost of Equity
David J. Garrett	OPC	DJG-14	Utility Awarded Returns vs. Market Cost of Equity
David J. Garrett	OPC	DJG-15	Competitive Industry Debt Ratios
David J. Garrett	OPC	DJG-16	Proxy Group Debt Ratios
David J. Garrett	OPC	DJG-17	Appendices

			Appendix A: Discounted Cash Flow Model Theory Appendix B: Capital Asset Pricing Model
Frank R. Radigan	OPC	FWR-1	Curriculum Vitae
Frank R. Radigan	OPC	FWR-2	Utilities Inc. of Florida List of Pro- Forma Projects that Lack Sufficient Support Information
Frank R. Radigan	OPC	FWR-3	Utilities Inc. of Florida List of Pro- Forma Projects that are CWIP and Not Plant in Service
Frank R. Radigan	OPC	FWR-4	Labrador Service Area
Frank R. Radigan	OPC	FWR-5	ISO New England Inc. Open Access Transmission Tariff (OATT) Pool Transmission Owners Annual Transmission Revenue Requirement
Sarah Lewis	OPC	SL-1	Customer Complaints – Composite
Sarah Lewis	OPC	SL-2	Consent Order Data
Sarah Lewis	OPC	SL-3	PSC’s Complaint Activity Tracking System
Sarah Lewis	OPC	SL-4	Consent Orders Issued by DEP to UIF

C. STATEMENT OF BASIC POSITION

The rate increase requested by UIF in this docket is not fully substantiated by evidence or law. Numerous adjustments are required to protect the interests of customers and to satisfy the statutory mandate to implement fair and reasonable rates. Additionally, the proposed Sewer and Water Improvement Mechanism would represent a sweeping change in policy, which only the Legislature can validly make. Not only is the proposed mechanism unnecessary, but approval of the scheme would exceed the Commission’s statutory grant of authority.

D. STATEMENT OF FACTUAL ISSUES AND POSITIONS

## GENERIC ISSUES

**ISSUE 1:** Is the overall quality of service provided by the Utility satisfactory, and, if not, what systems have quality of service issues and what action should be taken by the Commission?

OPC: No. Several systems have quality of service issues, including but not limited to, Lake Utility Services, Inc. (LUSI), Wekiva Hunt Club/Sanlando Utilities and Mid-County Services, Inc. At minimum, the Commission should find these three systems have marginal or unsatisfactory quality of service and should reduce the return on equity for the Utility by at least 50 basis points. If any specific UIF system or systems have a history of repeated or unresolved issues, such as Pasco-Summertree, the return on equity should be reduced by 100 basis points.

**ISSUE 2:** Should any adjustments be made to test year plant-in service balances?

OPC: Yes. Approximately half of the projects proposed by the Company were complete at the time testimony was filed in this case. OPC proposes adjustments to those that are either under construction or awaiting construction because the project documentation does not indicate the projects will be in-service by the end of the 24-month period after the test year, as required by 367.081(2)(a)2., F.S. Additionally, there are six projects which are studies unrelated to a construction project which were erroneously included as plant in service. The six projects which should be excluded from plant-in service are the Labrador Engineering WWTP Master Plan, Sandalhaven Smoke Testing/I&I Investigation, Sanlando ENG F5/C1/L2 FM, Sanlando UIF CIP Analysis/Modeling, Summertree ST PW-Smoke Testing/I&I Investigation and UIF Wekiva Eng Northwestern Bridge WM Replacement.

**ISSUE 3:** Should any adjustments be made to the Utility's pro forma plant additions?

OPC: Yes. For the approximately half of the 45 projects proposed to be completed over the 24-month period after the end of the test year, UIF has failed to provide sufficient verification of construction timing and final price. As such, there is no evidentiary basis upon which to approve these projects or to include these costs into the post-test year plant additions.

**ISSUE 4:** What are the appropriate plant retirements to be made in this docket?

OPC: The appropriate plant retirements are tied to the capital additions that are ultimately authorized by the Commission. If the Commission accepts the recommendation of OPC's expert to exclude several of the Company's claimed plant additions from rate base, then retirements associated with those additions should be added back to

rate base, since these retirements will not occur if the associated new capital additions are not completed.

**ISSUE 5:** Do any water systems have excessive unaccounted for water and, if so, what adjustments are necessary, if any?

OPC: Yes. UIF has identified five systems with excessive unaccounted for water: Lake Placid, LUSI, Golden Hills/Crownwood, Sanlando and Little Wekiva. At this time, OPC has no objections to the Company's proposed excessive unaccounted for water calculations. (Radigan).

**ISSUE 6:** Do any wastewater systems have excessive infiltration and/or inflow and, if so, what adjustments are necessary, if any?

OPC: Yes. UIF has identified two systems with excessive I&I. At this time, OPC has no objections to the Company's proposed I&I calculations. (Radigan).

**ISSUE 7:** What are the appropriate used and useful percentages for the water treatment and related facilities of each water system?

OPC:

WW System			
Labrador	79.94%		
Lake Placid	29.79%		
LUSI	65.00%		
Golden Hills/Crownwood	78.44%		
Mid-County	93.67%		

**ISSUE 8:** What are the appropriate used and useful percentages for the water storage and related facilities of each water system?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 9:** What are the appropriate used and useful percentages for the wastewater treatment and related facilities of each wastewater system?

OPC: The appropriate used and useful percentages for each wastewater system below 100% are as follows:

- Mid-County: 93.67%
- Labrador: 79.94%
- Lake Placid: 29.79%
- LUSI: 65%
- Marion-Golden Hills/Crownwood: 78.44%

**ISSUE 10:** What are the appropriate used and useful percentages for the water distribution and related facilities of each water system?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 11:** What are the appropriate used and useful percentages for the collection lines and related facilities of each wastewater system?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 12:** Should any adjustments be made to test year accumulated depreciation?

OPC: Yes. The Commission should make those adjustments that are necessary to be consistent with OPC's recommendations regarding utility plant additions. Therefore, the Commission should eliminate one year of depreciation expense that the Company added to the reserve related to the utility plant-in-service additions that are subject to Mr. Radigan's adjustment. It is also necessary to reduce the Company's reserve adjustment associated with retirements since some of those retirements may not occur. OPC recommends an accumulated depreciation adjustment of \$62,729 for water per Exhibit ACC-2, Schedule 5 and of \$3,488,242 per Exhibit ACC-3, Schedule 6.

**ISSUE 13:** Should any adjustments be made to test year CIAC balances?

OPC: Yes. The Commission should make those adjustments that are necessary to be consistent with OPC's recommendations regarding utility plant additions and associated retirements. Therefore, the Commission should adjust the CIAC balances to account for those projected plant retirements that were funded by CIAC but which the OPC reversed in its retirement adjustment, as discussed on page 14 of Ms. Crane's testimony. OPC's adjustments are shown on Exhibit ACC-2, Schedule 6 for water and in Exhibit ACC-2, Schedule 7 for sewer.

**ISSUE 14:** Should any adjustments be made to test year accumulated amortization of CIAC?

OPC: Yes. Adjustments to accumulated amortization should be made consistent with the adjustment to the CIAC balances discussed in Issue 13. . These adjustments are also shown on Exhibit ACC-2, Schedule 6 for water and in Exhibit ACC-2, Schedule 7 for sewer.

**ISSUE 15:** Contested Issue: Should any adjustments be made to the utility's proposed balances or amortization periods associated with each regulatory asset and/or regulatory liability?

OPC: UIF's petition for regulatory asset is under protest in a separate docket, Docket No. 20200189. As of the filing of the instant Prehearing Statement, no date for hearing has been set in Docket 20200189. As such, it is in appropriate to factor into this case a nonexistent regulatory asset which may never be established, and OPC objects to this issue.

**ISSUE 16:** What is the appropriate working capital allowance?

OPC: The appropriate working capital allowance for water is \$1,847,933 as shown on Exhibit ACC-2, Schedule 3. The appropriate working capital allowance for sewer is \$2,348,716, as shown on Exhibit ACC-3, Schedule 3...

**ISSUE 17:** What is the appropriate rate base for the December 31, 2019 test year?

OPC: The appropriate rate base for the December 31, 2019 test year for water is \$54,066,409, as shown in Exhibit ACC-2, Schedule 3. The appropriate rate base for the December 31, 2019 test year for sewer is \$74,394,657, as shown on Exhibit ACC-3, Schedule 3.

**ISSUE 18:** What is the appropriate amount of accumulated deferred taxes to include in the capital structure?

OPC: The components of the capital structure be adjusted consistent with the recommendations of Mr. Garrett regarding the percentages of long-term debt, short-term debt, and common equity. As discussed on pages 7-8 of Mr. Garrett's testimony, the capital structure should reflect 4.88% accumulated deferred taxes, which is the percentage of accumulated deferred taxes reflected in the capital structure proposed by UIF. .

**ISSUE 19:** What is the appropriate amount of customer deposits to include in the capital structure?

OPC: The components of the capital structure should be adjusted consistent with the recommendations of Mr. Garrett regarding the percentages of long-term debt, short-term debt, and common equity. As discussed on pages 7-8 of Mr. Garrett's testimony, the capital structure should reflect 0.17% customer deposits, which is the percentage of accumulated deferred taxes reflected in the capital structure proposed by UIF.

**ISSUE 20:** What is the appropriate cost rate for short-term debt for the test year?

OPC: The capital structure should consist of 5% short-term debt at a cost rate of 4.04% for water and sewer. The capital structure recommended by OPC's expert, as adjusted to further include customer deposits, tax credits and deferred taxes, includes 4.56% short-term debt.

**ISSUE 21:** What is the appropriate cost rate for long-term debt for the test year?

OPC: The capital structure should consist of 50% long-term debt at a cost rate of 5.78% for water and sewer. The capital structure recommended by OPC's expert, as adjusted to further include customer deposits, tax credits and deferred taxes, includes 45.63% long-term debt.

**ISSUE 22:** What is the appropriate return on equity (ROE) for the test year?

OPC: The appropriate ROE for the test year is 9.50%. (Garrett)

**ISSUE 23:** What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?



OPC: The appropriate WACC based on OPC's proposed capital structure and cost rates is 6.73%. (Crane).

**ISSUE 24:** What are the appropriate test year revenues?

OPC: OPC did not propose any adjustments to the Company's claimed test year revenues at present rates. With regard to proposed rates, there should be adjustments of \$1,693,982 to the Company's claimed water revenue deficiency of \$2,823,848, as shown on Exhibit ACC-2, Schedule 1. This would result in an overall water revenue increase of no more than approximately 6.8%. In addition, OPC's proposed sewer adjustments indicate a revenue deficiency of no more than \$2,577,689, as summarized on Exhibit ACC-3, Schedule 1. This reflects revenue requirement adjustments of \$3,951,694 to the Company's claimed revenue deficiency of \$6,529,383. OPC's proposed adjustments would result in an overall sewer revenue increase of no more than approximately 12.7%. (Crane p 42 lines 4-12)

**ISSUE 25:** What is the appropriate amount of rate case expense?

OPC: At this time OPC is not proposing an adjustment to the Company's rate case expense claim.

**ISSUE 26:** Should any adjustment be made to the Utility's proposed pro forma expense?

OPC: Yes. OPC several adjustments to the Company's pro forma expense claims should be made, as discussed on pages 20-41 of Ms. Crane's testimony. OPC's expense adjustments are summarized on Exhibit ACC-2, Schedule 8 for water and on Exhibit ACC-3, Schedule 9 for sewer.

**ISSUE 27:** Should any further adjustments be made to the Utility's test year O&M expenses?

OPC: Yes. OPC several adjustments to the Company's pro forma expense claims should be made, as discussed on pages 20-41 of Ms. Crane's testimony. OPC's expense adjustments are summarized on Exhibit ACC-2, Schedule 8 for water and on Exhibit ACC-3, Schedule 9 for sewer.

**ISSUE 28:** Should any adjustments be made to operating expense amortizations?

OPC: At this time, OPC has not proposed any adjustments to operating expense amortizations.

**ISSUE 29:** Should any adjustments be made to test year taxes other than income?

OPC: Yes. A payroll tax adjustment should be applied to reflect the impact of OPC's recommended adjustments to eliminate costs for new employee positions, reduce the annual labor cost escalator, eliminate severance costs and eliminate 50% of incentive compensation award costs. For water, a payroll tax expense adjustment of \$17,537 should be made, as shown on Exhibit ACC-2, Schedule 13. For sewer, a payroll tax adjustment of \$16,097 should be made, as shown on Exhibit ACC-2, Schedule 14.

It is also necessary to make adjustments to property tax expense in order to reflect certain reductions to utility plant-in-service and adjustments to non-used and useful plant (for the sewer utility). For water, a property tax expense adjustment of \$8,551 should be made per Exhibit ACC-2, Schedule 19. For sewer, a property tax expense adjustment of \$166,291 related to plant additions should be made, as shown on Exhibit ACC-3, Schedule 21, and a further property tax expense adjustment of \$21,885 related to non-used and useful plant, as shown on Exhibit ACC-3, Schedule 22.

**ISSUE 30:** Should any adjustments be made to test year depreciation expense?

OPC: Yes. For water, a depreciation expense adjustment of \$13,581 related to plant additions should be made, as shown on Exhibit ACC-2, Schedule 18. For sewer, an expense adjustment of \$348,738 related to plant additions should be made, as shown on Exhibit ACC-3, Schedule 19, and an additional expense adjustment of \$77,091 related to non-used and useful plant, as shown in Exhibit ACC-3, Schedule 20.

**ISSUE 31:** Should any adjustments be made to test year amortization of CIAC expense?

OPC: The adjustments that should be made to CIAC amortization expense are included in the depreciation expense adjustments shown in Exhibit ACC-2, Schedule 18 for water and in Exhibit ACC-3, Schedules 19 and 20, for sewer.

**ISSUE 32:** What is the appropriate amount of test year income taxes?

OPC: The income taxes will depend upon the specific level of revenues authorized by the Commission. However, the income taxes should reflect a state income tax rate of 4.46% in determining pro forma income tax expense. In addition, the Commission should return unprotected excess deferred income taxes to ratepayers over a five-year period.

**ISSUE 33:** What is the appropriate revenue requirement for the December 31, 2019 test year?

OPC: The appropriate revenue requirement should be calculated using a base revenue increase of \$1,129,866 for water, as shown in Exhibit ACC-2, Schedule 1 and a base revenue increase of \$2,577,689 for sewer, as shown in Exhibit ACC-3, Schedule 1.

**ISSUE 34:** What are the appropriate rate structures and rates for the water systems?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 35:** What are the appropriate private fire protection charges?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 36:** What are the appropriate rate structures and rates for the wastewater systems?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 37:** What are the appropriate reuse rates?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 38:** What are the appropriate customer deposits?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 39:** What are the appropriate guaranteed revenue charges?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 40:** Should a new Allowance for Funds Used During Construction (AFUDC) rate be established? If yes, what is the appropriate AFUDC rate and when will it become effective?

OPC: Yes. The AFUDC rate should be reduced to 6.73% as of the effective date of the Final Order in this docket.

**ISSUE 41:** Should the Utility's request for a Sewer and Water Improvement Mechanism (SWIM) be approved? If yes, what is the amount of the first year revenue requirement?

OPC: No. The request for SWIM should not be approved.

**ISSUE 42:** In determining whether any portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

OPC: The refund should be calculated in accordance with the Commission's findings and the rates established in this case.

**ISSUE 43:** What is the appropriate amount by which rates should be reduced after the established effective date to reflect the removal of the amortized rate case expense?

OPC: No position at this time. This position is subject to revision based on receipt of pending discovery responses, completion of deposition testimony and receipt of deposition transcripts.

**ISSUE 44:** Should the Utility be required to notify, 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?

OPC: Yes

**ISSUE 45:** Should this docket be closed?

OPC: No position at this time.

E. STIPULATED ISSUES:

None at this time.

F. PENDING MOTIONS:

None.

G. REQUESTS FOR CONFIDENTIALITY:

OPC has no pending requests for claims for confidentiality.

H. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

OPC has no objections to any witness' qualifications as an expert in this proceeding.

I. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 5<sup>th</sup> day of January, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

Docket No. 20200139-WS

**I HEREBY CERTIFY** that a true and correct copy of the Office of Public Counsel's Prehearing Statement has been furnished by electronic mail on this 5<sup>th</sup> day of January 2021, to the following:

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