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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20220066-WS

Application for increase in water
rates in Washington County, by
Sunny Hills Utility Company.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 3

COMMISSIONERS
PARTICIPATING: CHAIRMAN ANDREW GILES FAY
COMMISSIONER ART GRAHAM
COMMISSIONER GARY F. CLARK
COMMISSIONER MIKE LA ROSA
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Thursday, September 8, 2022

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
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 recognized next.

2 Mr. Rendell, you are recognized.

3 MR. RENDELL: Good morning, Commissioners.
4 Troy Rendell on behalf of Sunny Hills Utility.

5 I am here basically to support and commend
6 staff on this recommendation, and also to express
7 my appreciation to both your Commission staff and
8 the Office of Public Counsel on their cooperation
9 to this rate case proceeding.

10 I am available to answer any questions.

11 CHAIRMAN FAY: Okay. Great. Thank you, Mr.
12 Rendell.

13 Mr. Rehwinkel, you are recognized.

14 MR. REHWINKEL: Thank you, Mr. Chairman, and
15 Commissioners. Charles Rehwinkel and Marshall
16 Willlis are here with the Public Counsel on behalf
17 of the customers of Sunny Hills.

18 The Public Counsel has monitored this case
19 since its filing, and have thoroughly analyzed the
20 MFRs. We are here in support of the staff
21 recommendation that require -- that reduces the
22 request of the company from 25.6 percent to 15.38
23 percent.

24 We think the staff did a thorough job, and
25 that their adjustments are good, and they represent

1 a reasoned and balanced approach to this case. We
2 worked with the company to address some of our
3 concerns, and they answered our concerns to our
4 satisfaction.

5 As you are aware, Commissioners, rate case
6 expense can have an outside impact on rates in the
7 case of a company this size. One of the reasons I
8 am here today is to commend U.S. Water for making
9 this filing with the very minimum amount of rate
10 case expense included. This approach is helpful,
11 engaging the cost of litigation and can lead to
12 reasonable outcomes, especially when a company
13 minimizes its request as this company did.

14 Having said this, I also want to note for the
15 record that at a customer meeting, one of the
16 speakers indicated he was an employee of Deltona,
17 and that there was new a development and
18 construction underway by Deltona and on the
19 horizon. Whether this activity results in material
20 growth remains to be seen. If growth does
21 materialize, it may well have a large impact on
22 this company going forward.

23 Made mailed inquiries about the potential, and
24 your staff did too. We are satisfied that there is
25 nothing in the near-term that suggests that there

1 will be growth-driven revenue offsets that should
2 be considered in this rate case. If development
3 does occur on this scale, we will be monitoring the
4 situation, and we will work with the staff and the
5 company to address it if and when it occurs.

6 Those are all the comments I wanted to make,
7 but I felt like I needed to say that given the
8 posture case.

9 Thank you very much.

10 CHAIRMAN FAY: Okay. Great. Thank you, Mr.
11 Rehwinkel.

12 Commissioners, we have heard the comments from
13 our speakers. Do we have any questions or comments
14 on this docket?

15 Commissioner Graham, you are recognized.

16 COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

17 And we all up here have our little things that
18 we tend to focus on, things that kind of stick in
19 our crawl, and this happens to be one of mine.

20 Years ago, we used to have our Issue 1 and
21 Issue 2 used to be the same issue because it talks
22 about the quality of the product, and it also talks
23 about the quality of the equipment and the plant,
24 and we separate them so we can focus specifically
25 on the quality of the product. And the legislators

1 years ago -- thank you, Commissioner La Rosa --
2 asked -- there was Florida Statute 367.0812(2),
3 where it says: In determining the quality of the
4 water service, the Commission shall bind the
5 department -- the DEP as to whereas the utility has
6 failed to provide water service that meets
7 secondary water quality standards.

8 As it says right here in Issue 1, that they
9 did not meet the iron levels in well one. And if
10 you read the complaint, they got enough complaints
11 about the iron in the water that DEP went out on
12 their own and checked it and said that this is a
13 problem. So I have an issue for us giving a
14 determination of satisfactory. In my opinion, it's
15 unsatisfactory.

16 Now, to the credit of the utility, they have a
17 plan to fix it. And according to this
18 recommendation in front of us, they plan to fix it
19 before the end of the year.

20 I guess the first question I have is: Staff,
21 how do we know when they made this fix, and how
22 does that determination get back to us?

23 CHAIRMAN FAY: And whoever is best --

24 MR. RICHARDS: I would like to defer to
25 engineering.

1 CHAIRMAN FAY: Yeah, Mr. Phillips, you are
2 recognized.

3 MR. PHILLIPS: I am sorry, your question was
4 how do we know that when -- when they fix it in the
5 future, how would we be aware of it?

6 COMMISSIONER GRAHAM: Yeah. I mean, because
7 right now, they have a problem. Right now, the
8 iron levels are high, so they do not meet the
9 secondary water quality standards. So they said
10 that they have a fix that they are going to do
11 before the end of the year. How do we know, as a
12 commission, when that is done?

13 MR. PHILLIPS: We would have to monitor it,
14 from my understanding. We would have to be in
15 contact with them. There is no -- to my knowledge,
16 there is no -- nothing set up for us to be made
17 aware when it occurs.

18 COMMISSIONER GRAHAM: So can we put in the
19 order that they will just contact us? And we can
20 make this a staff function as far as I am
21 concerned. I just want to know when it's done.

22 MR. PHILLIPS: I think we can do that.

23 Would legal have an issue with that? Yeah, we
24 could -- we could add that to the order.

25 COMMISSIONER GRAHAM: Okay. Well, guys, to

1 me, I think this should be unsatisfactory. I am
2 not looking to pun -- I am sorry -- to penalize
3 these guys. I think they've got enough to handle
4 as it is. But as we look at this case three years
5 from now, four years from now, six years from now,
6 we want to go back and say, well, wait a minute,
7 they did not have satisfactory water back then.

8 And so there is no confusion, I am not looking
9 to change the ROE. I just think the determination,
10 it should be from satisfactory to unsatisfactory.

11 CHAIRMAN FAY: Okay. With that, staff, I just
12 want to make sure with legal, based on Commissioner
13 Graham's comments, we would just essentially amend
14 Issue 1 as to unsatisfactory, and then the
15 recommendation, itself, does speak to the issues
16 with iron, so we would need to give technical
17 assistance just to make sure that's clear in the
18 recommendation, but as long as legal is okay with
19 that.

20 MR. BAEZ: Mr. Chairman, can we have a second?

21 CHAIRMAN FAY: Sure.

22 MR. BAEZ: Thank you.

23 MS. CRAWFORD: There is another possibility I
24 would like to suggest, if I may. Jennifer Crawford
25 for legal staff.

1 CHAIRMAN FAY: Absolutely. Go ahead, Ms.
2 Crawford.

3 MS. CRAWFORD: So satisfactory and
4 unsatisfactory, we know what those look like. The
5 Commission has also crafted a finding of marginal,
6 where the water quality is not such that major
7 corrections need to be made, or an ROE penalty is
8 appropriate, but there are some concerns that they
9 aren't quite meeting the standards as required by
10 DEP.

11 We could also, in addition to the reporting
12 requirement that we will put in the order, we can
13 have a finding of marginal to reflect that the
14 water quality is less than satisfactory. However,
15 if it is your will that it be marked
16 unsatisfactory, that is also, of course, an option.

17 CHAIRMAN FAY: Okay. Thank you, Ms. Crawford.

18 And then I will give our legal and our
19 Executive Director just a few minutes here just to
20 make sure we are in the right posture.

21 MS. HELTON: Well, I think it's up to you all
22 to decide what label you want to affix to the
23 service. And so I think the appropriate posture
24 would be to deny staff's recommendation, find the
25 level of service where you think it should be, and

1 then to require the utility to report back to the
2 Commission staff when it has resolved the issues as
3 identified by DEP and in the staff recommendation.

4 CHAIRMAN FAY: And I would agree with you. I
5 just agreed to give them some time to figure it out
6 and --

7 MR. BAEZ: Mr. Chairman, thank you.

8 The General Counsel and I were actually
9 discussing more or less the same thing. I think
10 Mary Anne covered the need for a specific vote on
11 any change to the quality of service.

12 And if I -- if you will permit an indulgence,
13 I would endorse Ms. Crawford's recommendation, if
14 only because we can achieve the same goal.

15 And I appreciate Commissioner Graham's concern
16 with this. He has always been very steadfast and
17 paying special consideration to this type of
18 situation. I think -- I think by taking the middle
19 road, we avoid -- we avoid future confusion as to
20 whether an unsatisfactory finding sort of requires,
21 or kind of mandates some sort of, at least for
22 consistency sake, some kind of penalty.

23 The middle road that's been suggested seems to
24 be tailored to achieve the results that
25 Commissioner Graham has laid out, and I think the

1 results that we all share.

2 CHAIRMAN FAY: Okay. Great. So we have the
3 feedback from staff.

4 Commissioner Graham, you are recognized.

5 COMMISSIONER GRAHAM: Thank you.

6 Actually, that solves my problem. I was
7 getting ready to say, after Ms. Crawford made that
8 suggestion, because every other time we said it was
9 unsatisfactory, it always comes with some sort of
10 ROE penalty. And since I wasn't suggesting any
11 sort of ROE penalty, I think both collectively,
12 Mr. Braulio and Ms. Crawford made a great
13 suggestion maybe going with marginal.

14 That's what I am looking for to do for
15 actually marking this order. And so if we are
16 looking back we are not saying, well, these guys
17 have been satisfactory the entire time. This way,
18 at least there is a tag there that we can go back
19 and research a little further. So that's basically
20 all I was trying to get to.

21 CHAIRMAN FAY: Okay. And just before we take
22 a motion from you, Commissioner Graham, let me just
23 make sure we don't have any other Commissioners.

24 Commissioner Clark, you are recognized.

25 COMMISSIONER CLARK: I wanted to ask Mr.

1 Rendell just a couple of questions, if you don't
2 mind, Mr. Chairman, in regards to the system.

3 I am really familiar with the system, and have
4 not had any a local complaints about the water
5 quality there. Has the iron problem been isolated
6 to a particular section in the Sunny Hills
7 development, or is it system-wide?

8 MR. RENDELL: It's one well. In the main
9 section there is two wells. There is well number
10 four and well number one. This is a backup well,
11 and the main well is further north in the system.
12 It's well number four. It's a higher elevation, so
13 there is a pressure reducing valve to serve the
14 area down where well one is located.

15 We tend -- we try not to run one. What
16 happens is if there is a main break, and recently
17 we had an issue with the pressure reducing valve,
18 that caused that well to come on. When that well
19 comes on, it does -- it stirs up sediment and it
20 puts iron to the system.

21 Recently, DEP came out because of customer
22 complaints, and they did -- they did look at the
23 water and flushing, and they did find a
24 satisfactory except for the iron levels, but they
25 did recognize that we are putting iron removal

1 filtration on that well.

2 COMMISSIONER CLARK: And this has been -- the
3 complaints related to the iron, how long have they
4 been going on? Has this been a long-term thing, or
5 is this something more --

6 MR. RENDELL: It's been -- been pretty long,
7 but only when that well comes on, and usually when
8 there is a main break.

9 The number of customer complaints that is
10 addressed in the -- in the staff recommendation are
11 mainly due to main breaks and loss of pressure
12 because of main breaks. And if there is -- if well
13 number four can't keep up, that will cause well
14 number one to come on as the backup. That's why we
15 are primarily looking at adding the iron filtration
16 on.

17 COMMISSIONER CLARK: I would also acknowledge
18 Mr. Rehwinkel's comments regarding the growth of
19 Sunny Hills. We've been waiting on an explosive
20 growth there since 1970. It could happen any day
21 now, Mr. Rehwinkel. It's right around the corner.
22 We promise.

23 CHAIRMAN FAY: Great. Thank you, Commissioner
24 Clark.

25 Commissioner La Rosa, you are recognized.

1 COMMISSIONER LA ROSA: Thank you, Mr.
2 Chairman.

3 Just more for clarification. So if we move to
4 a marginal classification, what does that do to --
5 for Sunny Hills to come back to us with test
6 results, or do we have the ability to still analyze
7 that, going back to Commissioner Graham's initial
8 point? And maybe there is a DEP process that I am
9 less familiar with.

10 MR. RUBOTTOM: John Rubottom with legal staff.

11 I believe, given staff's -- technical staff's
12 comments that they can be in contact and we can
13 modify the order to reflect a requirement.

14 MS. HELTON: Actually, I am going to disagree
15 a little bit with Mr. Rubottom.

16 I think the marginal will stay until the next
17 vote by the Commission with respect to service,
18 whenever -- if they come in for another rate case
19 or come in for some other reason, they can request
20 that marginal be moved back to satisfactory if that
21 is, in fact, the case with the service.

22 There is really -- it's just like a marking
23 system for us to keep track of what the service
24 level is. It would be a little bit different if,
25 as Commissioner Graham had suggested, and we entity

1 went to unsatisfactory and there was an ROE
2 penalty, then I think there might be a reason for
3 the utility to want to come to us sooner rather
4 than later if the problem was resolved. But here,
5 we are just keeping track. We are monitoring. We
6 know that it's resolved.

7 If we don't get something by the end of the
8 year, which is when I think Mr. Rendell said that
9 the service problem would be resolved, then I think
10 it would be incumbent on staff to reach out, find
11 out what's happening, determine then whether we
12 need to come back to you all and say, there is a
13 little bit more going on here than we originally
14 thought. So that just is a trigger to help us
15 monitor the service that's being provided by the
16 utility.

17 MR. FUTRELL: Commissioner La Rosa, I would
18 also like to add, as far as the monitoring, staff
19 can monitor the DEP's system for those reports that
20 are filed by the utility as far as compliance, and
21 monitor whether or not, in the future, when the
22 cyclical testing is done to compare the results of
23 this most recent test with future tests, and
24 monitor it that way informally. So that's an
25 option that staff has to be able to kind of keep an

1 aye on the results that come from the DEP testing.

2 And then also on the reporting requirement, if
3 you wanted to put in some sort of a time -- point
4 in time when a report is due, provide a little more
5 certainty, that's another option at your disposal,
6 to have the utility report in at some point in time
7 to help monitor how progress is going on the
8 project. Sometimes these projects can go on, and
9 sometimes there is a desire to be able to monitor
10 how progress is occurring.

11 COMMISSIONER LA ROSA: Great. Thank you.

12 And this is what I am thinking, if I am a
13 customer and I live, you know, in this service
14 territory, and I live under a marginal water
15 quality, I, frankly, wouldn't be satisfied.

16 I would like there to be some type of
17 reporting that we can go back and look at. I am
18 not going to pretend to say I know exactly what
19 that timeframe is, whether that's, you know, three
20 months, four months, eight months. But I would
21 like for it to come back for us to at least
22 reconsider, and thinking about the customers first,
23 is I would like to elevate them at the nearest
24 possible opportunity, at the same time give the
25 water company the ability to have the incentive to

1 do that, because I know I wouldn't want not -- I
2 would not want to live under a marginal water
3 quality status. So if that can be added to the
4 order, certainly that would be what I would be in
5 support of.

6 CHAIRMAN FAY: Commissioner La Rosa, I was
7 going to let, Mr. Rendell, if you just want to
8 maybe comment on that timeline portion of it.

9 MR. RENDELL: Sure. A couple of things.

10 One, for testing, the utility meets primary
11 and secondary standards. The iron is not going to
12 go away in the wells. It's always been there. The
13 testing is going to come when we put the iron
14 removal filtration and then we test the water after
15 the filtration to show that it is removing the
16 iron. So the iron is always going to be in that
17 well, but once we do the filtration, then we can
18 test the water after it.

19 The -- I would suggest, like, maybe a
20 six-month reporting on the progress of the
21 proforma. We, as everyone else in the industry is,
22 we are facing supply chain issues, finding
23 contractors. We've got the permit. We have the
24 plan. We are having problems finding someone to
25 pour concrete. I mean, it's got to -- it's getting

1 really bad to find companies that can do the work.
2 Some of our -- some of the things we have ordered,
3 they may not be even ready for a year. Not in this
4 case, but just generally in the industry. And I
5 think everyone in the industry is having that same
6 issue.

7 So I would suggest -- I don't believe did will
8 be done by December 31st, but will be done
9 hopefully within the next six months.

10 CHAIRMAN FAY: Okay. And with that, Mr. Baez,
11 did you have something you wanted to add before I
12 go to Ms. Crawford?

13 MR. BAEZ: Maybe just a question to clarify,
14 although, I think Ms. Crawford may be on to
15 something.

16 MS. CRAWFORD: Yeah. On the point that
17 Commissioner La Rosa raised up about having some
18 action where customers can follow up on the
19 marginal quality. Certainly staff, if it
20 identifies additional problems, any worsening of
21 the condition, we can commit to being active in
22 bringing that back to the Commission.

23 Normally, we wouldn't have a mechanism in
24 place to automatically revisit water quality,
25 absent either staff raising it in a docket because

1 we identified a problem, or worsening problem, or,
2 as Ms. Helton I believe discussed, the company
3 coming forward with either a rate filing, which we
4 would look at water quality, or specifically filing
5 a petition to address the marginal status.

6 I think those will probably adequately address
7 your concerns of making sure we are monitoring and
8 keeping an eye on that, but I will just put that
9 out there for you.

10 CHAIRMAN FAY: Do you follow, Commissioner La
11 Rosa?

12 COMMISSIONER LA ROSA: It does, but I see
13 Commissioner Passidomo at the other end itching. I
14 am curious what she has to say.

15 But I do agree with what staff says in having
16 a mechanism. They are giving us a little bit more
17 of a microscope, and it gives them more ability, it
18 makes me feel comfortable.

19 CHAIRMAN FAY: Great. Yeah. And then we will
20 go to Commissioner Passidomo, and then,
21 Commissioner Clark, I will recognize you next.

22 Go ahead.

23 COMMISSIONER PASSIDOMO: Thank you, Mr. Chair.
24 Thanks, Commissioner La Rosa. I do agree with
25 your concerns. I would feel the same way if I was

1 an investor. I think maybe a potential suggestion,
2 which I would probably want to confer with legal
3 staff, but keeping the docket open for Mr.
4 Rendell's suggestion of the six months, and keeping
5 it open for that six months, and then, you know,
6 until we get verification that the issues have been
7 reinvolved, if that's possible.

8 CHAIRMAN FAY: Okay. Mr. Rendell, any comment
9 on that? I think you had mentioned just previously
10 that six-month timeline for reporting, but I guess
11 we can check with legal to too just to make sure,
12 if we left that open for purposes of being reviewed
13 at that time point, do you think we would need to
14 leave that open, or we could do that either way?

15 MS. CRAWFORD: Actually, Mr. Ballinger had
16 suggested, and I think what he was getting at was
17 maybe modifying the close-the-docket issue to leave
18 the docket open until the reporting comes in. And
19 depending on what is in that report, staff could
20 bring a subsequent recommendation, or if it appears
21 that the matter has been satisfactorily resolved,
22 we could do an administrative amendment to the
23 Clerk to close the docket, if you are comfortable
24 delegating that to staff.

25 CHAIRMAN FAY: Okay. Great.

1 Commissioner Clark, you are recognized.

2 COMMISSIONER CLARK: I just want to make a
3 comment about the quality of service. I am pretty
4 familiar with this system and the folks that live
5 here. This is, like, about 10 miles from where I
6 live. And I see a lot of customers here regularly,
7 and when the rate increase proposal was proposed, I
8 had a lot of comments and questions from these
9 folks. And one of the things I asked was, you
10 know, how is the water there? And there have been
11 a large number of comments about the improvements
12 that have been made.

13 And I don't think that you can characterize
14 the quality of water in this system as
15 unsatisfactory. I don't believe that's the case
16 from the experience that I have had with the
17 customers there. I think we have a little bit of
18 an isolated incidence here that is driving this
19 particular survey results you might see here. But
20 I don't think the quality of the water is -- it's
21 actually very good water. It's actually very good
22 quality water, especially compared to a lot of
23 other places.

24 I don't think the characteristic of marginal
25 or unsatisfactory quality here would be an accurate

1 description. That's my opinion.

2 CHAIRMAN FAY: Okay. Great.

3 With that, Commissioners, any other comments?

4 Anything else from staff?

5 Okay. With that, Commissioners, I will
6 entertain a motion on this item. I know we have a
7 few sort of outstanding issues, but I guess Issue
8 1, as it relates to the categorization of the item,
9 the reporting requirement, and then if we would
10 leave the docket open until we receive that
11 reporting requirement, that can all be addressed in
12 a motion, or as the recommendation as stated.

13 Commissioner Graham, you are recognized.

14 COMMISSIONER GRAHAM: Mr. Chairman, are we
15 going to make any other changes to any of the other
16 issues or are we just --

17 CHAIRMAN FAY: I don't think there is any
18 other, from the Commissioners, no other changes to
19 other issues.

20 COMMISSIONER GRAHAM: Okay. Well, I would
21 move staff recommendation on all issues except for
22 Issue 1. Would change the designation from
23 satisfactory to marginal, and that we would request
24 that the utility come back to us within six months,
25 a year, and let us know that the improvements have

1 been made, and that the iron content at the
2 household has dropped down to within secondary
3 standards, but not necessarily at the well, but on
4 the other side of the filtration.

5 CHAIRMAN FAY: Okay.

6 COMMISSIONER GRAHAM: And we would change
7 Issue 20 -- Issue 21 to leave the docket open until
8 that is done.

9 CHAIRMAN FAY: Okay. So we will also amend
10 Issue 21 as to leaving the docket open for that
11 six-month reporting period.

12 So with that motion, Commissioners, do I have
13 a second?

14 COMMISSIONER PASSIDOMO: Second.

15 CHAIRMAN FAY: I have a second.

16 All that support say aye.

17 (Chorus of ayes.)

18 CHAIRMAN FAY: Any opposed?

19 COMMISSIONER CLARK: Opposed.

20 CHAIRMAN FAY: With that, four to one the item
21 passes.

22 Thank you, Commissioners. Thank you, Mr.
23 Richards.

24 (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 stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 19th day of September, 2022.



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