STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

C/O THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
850-488-9330

EMAIL: OPC_WEBSITE@LEG.STATE.FL.US
WWW.FLORIDAOPC.GOV

BEN ALBRITTON
President of the Senate

DANIEL PEREZ
Speaker of the House of Representatives

February 27, 2025

VIA: ELECTRONIC FILING

Adam Teitzman
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Docket No. 20240099-EI – Petition for rate increase by Florida Public Utilities Company.

Dear Mr. Teitzman:

The intent of this letter is to advise the Commission staff and Florida Public Utilities Company (FPUC or Company) of the Office of Public Counsel's (OPC) concerns, based on a preliminary review of the PAA recommendation filed February 20, 2025. First and foremost, the OPC would like to acknowledge all the work put into this PAA recommendation, particularly the rate and rider mitigating recommendations in Issues 10, 43, and 59. OPC's concerns with several of the issues in PAA recommendation are outlined below. The OPC will ask that at least the preliminarily identified accounting adjustments discussed below be made in any PAA order issued. Upon review of the order actually issued, and upon further analysis, the OPC reserves its right to file a protest and continue to conduct discovery on these and other issues that are discussed here and which may arise. Accordingly, we may be compelled to seek a hearing on any portion of such an order with which we disagree.

Issue 2 – Forecasted Billing Determinants

On page 7 of the recommendation, this issue addresses whether FPUC's forecasts of customers, energy (kWh), and demand (kW) by revenue and rate class for the projected test year are appropriate. The Company filed its MFRs for the instant case on August 22, 2024, and FPUC filed its 2024 Forecasted ESR on March 15, 2024. Given that there is only about a five months gap between these filings, the OPC would point out the notable forecast variances for the 2024 prior year in the table below.

Description	2024 Forecasted ESR Schedule 3	MFR Schedule C-1 2024 Amounts	$ Difference
Total Operating Revenues	$119,606,855	$107,445,266	($12,161,589)
Adjusted Jurisdictional Operating Revenues	28,825,720	25,622,045	(3,203,675)
Jurisdictional Net Operating Income	5,562,714	3,734,286	(1,828,428)

The delta for adjusted jurisdictional operating revenues reflects the 2024 MFR amount is 11.11% less than the 2024 Forecasted ESR amount. More notably, the delta for jurisdictional net operating income reflects the 2024 MFR amount is 32.87% less than the 2024 Forecasted ESR amount. The OPC is concerned that this underrun in projected amounts is not adequately explained and could, depending on further discovery, reveal overstated revenue requirements.

Issue 6 – Substations & Transmission Assets, Issue 10 – Communication System, and Issue 44 – Taxes Other Than Income

On page 24 of the recommendation for Issue 6, the Commission staff recommends that the Commission grant FPUC authorization to increase its rates when all proposed substation assets have been placed into service for the benefit of FPUC's customers. The OPC asserts that the Commission staff's calculated revenue requirement step increase of $641,097 is overstated because it omits the corresponding interest synchronization adjustment to decrease income taxes associated with the interest expense on the $5 million-plus rate base increase for the substation assets. The OPC estimates that this omission would reduce the step increase amount by a fallout amount. Moreover, at this time, and pending further discovery and investigation, the OPC reserves its right to raise other concerns regarding the proposed step increase approach, including the propriety of even making one.

Even though the Commission staff further recommends that the substation project be approved, the OPC contends that the full amount of revenue requirement associated with these assets requested by FPUC should not be included in rates at this time. As a result, on Attachment 1 on page 116 of the recommendation, the Commission staff recommended a plant reduction of $11,472,643 and an accumulated depreciation reduction of $337,844. Further, on Attachment 3 on page 118 of the recommendation, the Commission staff recommended a depreciation expense reduction of $211,288 and an income taxes increase of $53,551. However, the Commission staff overlooked making a corresponding adjustment for property taxes associated with the substation project.

On page 30 of the recommendation for Issue 10, the Commission staff recommends approval of the proposed two-way communications system but also recommended a rate base reduction of $940,711 associated with it. As reflected on Attachment 1 on page 116 of the recommendation, the $940,711 is comprised of three separate adjustments: 1) plant decrease of

$939,615, 2) accumulated depreciation decrease of $87,365, and 3) CWIP decrease of $88,462. Further, on Attachment 3 on page 118 of the recommendation, the Commission staff recommended a depreciation expense reduction of $187,357 and an income tax increase of $47,486. However, the Commission staff again did not make a corresponding adjustment for property taxes associated for their communication system plant reduction.

On page 88 of the recommendation, it states the following:

> The total 2025 projected test year Company proposed TOTI per books is $9,376,855. Combined with net operating income adjustments of ($7,019,075), results in an adjusted jurisdictional TOTI amount of $2,357,780. In response to staff's data request, the Company provided the projected 2025 property tax expense calculations. Staff observed that the forecasted 2025 property tax increased relative to prior 2024 year as a result of forecasted increases to 2025 average plant in service. Staff believes the increased forecast for average plant to be reasonable; thus, the forecasted 2025 property tax calculations are also reasonable.

(Footnotes omitted.)

The following are the Company's calculations for its forecasted 2025 property taxes rounded to nearest dollar:

Description		Amount
2023 Property Tax		$1,333,960
Increase in Average Plant in 2024:		
Average Plant B-1 (2024) line 29	$181,250,167	
Average Plant B-1 (2023) line 29	173,342,969	
Increase in Plant	$7,907,198	
Estimated Effective Property Tax Rate	2%	
	$158,144	158,144
		$1,492,104
Inflation Factor based on C-7 (2024)		1.0284
Property Tax Forecast for (2024)		$1,534,480
Property Tax Estimate on C-20 (2024)		$1,534,480
Increase in Average Plant in 2025:		
Average Plant B-1 (2025) line 29	$216,268,461	
Average Plant B-1 (2024) line 29	181,250,167	
Increase in Plant	$35,018,294	
Estimated Effective Property Tax Rate	2%	
	$700,366	700,366
		$2,234,846

Inflection Factor based on C-7 (2025)	1.0231
Property Tax Forecast for (2025)	$2,286,471

In light of the above property tax calculations, the OPC position on proper recognition of property taxes for the aforesaid substation and communications system adjustments is shown below.

Given the Company's calculations of its 2025 forecasted property taxes, the appropriate corresponding reduction adjustment for property taxes associated with the substation project should have been as follows:

Staff Recommended Plant Reduction	($11,472,643)
Estimated Effective Property Tax Rate	2%
	($229,453)
Inflation Factor based on C-7 (2025)	1.0284
Corresponding Property Tax Reduction	($235,969)

Although requested, the OPC never received an Excel file, with formulas intact (similar in function to what we received recently for the TECO Final Order in Docket No. 20240026-EI), that calculated the revenue requirement. However, the following is the OPC's calculation of the estimated revenue requirement impact:

Corresponding Property Tax Reduction	($235,969)	($235,969)
Composite Income Tax Rate of 25.345%	25.345%	
Corresponding Income Taxes Adjustment	$59,806	59,806
Net Adjustment Prior to Grossing-Up		($176,163)
NOI Multiplier		1.3477
Corresponding Rev Req. Reduction to Property Taxes		($237,415)

Given the Company's calculations of its 2025 forecasted property taxes, the appropriate corresponding reduction adjustment for property taxes associated with the communication system is as follows:

Staff Recommended Plant Reduction	($939,615)	
Estimated Effective Property Tax Rate	2%	
	($18,792)	
Inflation Factor based on C-7 (2025)	1.0284	
Corresponding Property Tax Reduction	($19,326)	($19,326)
Composite Income Tax Rate of 25.345%	25.345%	
Corresponding Income Taxes Adjustment	$4,898	4,898
Net Adjustment Prior to Grossing-Up		($14,428)

NOI Multiplier	1.3477
Corresponding Rev Req Reduction to Property Taxes	($19,444)

In addition to omissions of the two corresponding reductions discussed above, the OPC has identified several additional adjustments that must be made to the Company's calculations for its forecasted 2025 property taxes. First, with respect to the Company's use of total average plant increases in 2024 and 2025, it is inappropriate to include intangible plant as property taxes are only assessed on associated tangible property and real estate. Second, it is inappropriate to include transportation equipment because they are not part of the Company's tax base as the Commission found in FPUC's 2008 gas rate case on page 24 of Order No.2009-0375-PAA-GU. Third, the Company's proposed inflation factor is inappropriate because the increase in gross plant, net of intangible plant and transportation equipment is sufficient to forecast property. Also, the Company's property taxes decreased by 7.83% in 2023 and decreased by a net 1.76% since 2021 which, based on this historical trend, would not warrant the application on an inflation factor for 2024 and 2025 property tax forecasting purposes. Fourth, consistent with the Commission's practice of treating forfeited discounts below the line, the Company's forecast calculations fail to factor in the 4% discount applicable if property taxes are paid in November. Based on the above, the following is the appropriate further reduction to the Company's 2025 projected property taxes.

Additional Property Tax Reduction	($318,927)	($318,927)
Composite Income Tax Rate of 25.345%	25.345%	
Corresponding Income Taxes Adjustment	$80,832	80,832
Net Adjustment Prior to Grossing-Up		($238,095)
NOI Multiplier		1.3477
Corresponding Rev Req. Reduction to Property Taxes		($320,880)

Issue 36 – Rate Case Expense

On page 78 of the recommendation, staff analysis reflects the following:

> ***Staff Analysis:*** Generally, rate case costs encompass preparing and effectuating a rate case. On MFR Schedule C-10, FPUC projected a total rate case cost of $1,530,907. This cost is proposed to be recovered over a four-year amortization period, which yields a test year amortization expense of $382,727. FPUC witness Napier stated that the Company is not staffed at a level to process a rate case proceeding, and instead, hires extra assistance when needed. This includes legal services, contracting with expert witnesses and consultants, and hiring a full-time temporary internal staff to assist with processing the rate case work. The components of FPUC's requested rate case cost is summarized in Table 36-1.

Table 36-1
Rate Case Cost

Description	Cost
Legal Services	$133,500
Outside Consultants	596,105
Additional/Temporary Resources above Baseline	772,497
Travel	28,805
Total	$1,530,907

Source: MRF Schedule C-10.

CONCLUSION

> Staff recommends that the Commission approve a total rate case cost of $1,530,907 with a four-year amortization period. The corresponding annual amortization expense is $382,727.

(Footnote omitted.)

The OPC is concerned that the absence of a request for any support documentation, including, but not limited to, invoices and/or estimates to complete, left the Commission staff without the opportunity to thoroughly review the total requested rate case expense of $1,530,907 for any excessive amounts, unrelated amounts, and/or any positive variances from the initial estimated amounts. Absent such justification or an appropriate downward adjustment, the OPC would be compelled to explore this issue in a hearing, including whether the amortization period should be five years instead of four.

Issue 39 – Bad Debt Expense

On MFR Schedule C-3, the Company made a reduction to bad debt expense of $21,057 to eliminate storm bad debt. In Order No. PSC-2023-0103-FOF-GU, the Commission found that FPUC did not sufficiently demonstrate a need for the departure from the long-standing practice of collecting bad debt expense through base rates. As such, the Company's reduction of $21,057 should be reversed.

In addition, on page 81 of the recommendation, the Commission recommended 2025 test year bad debt expense of $602,010. According to MFR Schedule C-11, the 2025 calculated bad debt factor is 0.55% or 0.5470% ($602,010 of retail write-off divided by $110,052,874 of adjusted gross revenues). Further, the Commission staff recommended a bad debt rate of 0.5227% based on the three-year average for the 2023 historical test year, the 2024 prior year, and the 2025 projected test year. Consistent with the Commission staff's recommended average bad debt rate of 0.5227%, a normalization adjustment of $26,764 [(0.5227%-0.5470%)*$110,052,874] is necessary to decrease 2025 test year bad debt expense.

The resulting net revenue increase is overstated by $5,742 [(($26,764-$21,057)*(1-.25345))*1.3477].

Issue 42 – Total O&M Expense

On page 86 of the recommendation, Issue 42 addresses the total 2025 test year O&M expenses. On page 12, line 22 of Company witness Russell testimony, he states that Chesapeake Utilities Corporation's executive risk insurance includes directors' and officers' liability (DOL) coverage. The Commission's current practice is to split this expense equally among the shareholders and ratepayers. The Company reflected no 2025 test year adjustment for DOL insurance expense in MFR Schedule C-2. Consistent with the Commission's practice, a reduction is necessary for DOL insurance. If there is a hearing in this case, the OPC expects to review affiliated transactions, including intercompany payables and receivables and the propriety of the requested increase in the storm accrual of $335,000 (from $121,620 to $446,979).

Issue 45 – Income Tax Expense

The Commission staff used the difference in the per books amounts from the initial MFR Schedule C-2 and the Revised MFR Schedule C-2 provided in response to Staff Data Request 14, instead of the Company adjusted amounts. To highlight this problem, the Company made adjustments to depreciation expense by $211,288 and decrease income taxes by $53,551 for the substation project in both the initial and revised MFR Schedules C-2 which is not captured in the per books amounts. Accordingly, since that adjustment is not included in the per books amount, the Commission staff adjustment to remove in Attachment 3 would be unwarranted. Similarly, the difference in the Company's adjusted amounts in the initial MFR Schedule C-2 and the Revised MFR Schedule C-2 must be utilized to determine the appropriate 2025 test year income taxes. Also, the Comission staff's positive $12,167 corresponding income tax adjustment associated with their positive $234,858 depreciation expense adjustment is incongruent because a positive operating expense adjustment yields an inverse or negative impact on the corresponding income tax expense. Based on the attached analysis, the Commission staff understated its total net adjustment of negative $444,707 by $60,988 which results in an appropriate total net adjustment of negative $505,695. This results in a revenue requirement overstatement of $82,193 ($60,988*1.3477).

Conclusion

Given the relative short 12-day period to review the provided staff workpapers and verify the voluminous staff recommended amounts associated with the 40-plus revenue requirement issues, the following adjustments should at least be made ***at this time***.

OPC Issue 6 Reduction	($237,415)
OPC Issue 10 Reduction	($19,444)
OPC Issue 44 Reduction	($320,880)
OPC Issue 45 Reduction	($5,742)

In addition to at least making corrections to these obvious errors, the Commission should also consider potential unexplained revenue forecast variance as set out above and as they relate to the 2025 test year, which could cast doubt that any revenue increase is warranted without further explanation and justification. Additionally, as stated above, a reduction is necessary for DOL insurance consistent with the Commission's current practice, and a reduction may be warranted for rate case expense pending receipt and review of support documentation including, but not limited to, invoices and/or estimates to complete.

At the upcoming agenda conference, the OPC will ask that at least the preliminarily identified and quantified accounting adjustments be made in any PAA order issued. Additionally, as stated at the outset, upon review of the order actually issued, and upon further analysis and review, the OPC may be compelled to seek a hearing on any portion of the PAA order with which it disagrees, especially with regard to a possible sales forecast discrepancy, affiliated transactions, rate case expense amortization period, and annual storm reserve accrual.

Respectfully submitted,

Bart Fletcher

Bart Fletcher
Legislative Analyst

Attachment

CC: Parties of Record