

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and
wastewater rates in Brevard, Citrus, Duval,
Highlands, Marion, and Volusia Counties,
by CSWR-Florida Utility Operating Company.

Docket No.: 20250052-WS

**CSWR-FLORIDA'S RESPONSE IN OPPOSITION TO
OFFICE OF PUBLIC COUNSEL'S MOTION AND NOTICE OF INTENT
TO SEEK OFFICIAL RECOGNITION**

Pursuant to Florida Administrative Code ("F.A.C.") rules 28-106.204 and 28-106.213(6), Applicant CSWR-Florida Utility Operating Company, LLC ("CSWR-Florida"), responds in opposition to Office of Public Counsel's ("OPC") Motion and Notice of Intent to Seek Official Recognition ("Motion").

INTRODUCTION

1. On March 20, 2025, CSWR-Florida initiated this rate case, which is now scheduled for final hearing June 8-12, 2026.
2. Independent from this rate case docket, pursuant to rule 25-30.0371, F.A.C., CSWR-Florida has five (5) pending petitions for acquisition adjustments, relating to its acquisitions of the water and/or wastewater systems formerly known as North Peninsula Utilities Corporation, Aquarina Utilities Inc., Sunshine Utilities of Central Florida, Inc., Neighborhood Utilities, Inc., and Rolling Oaks Utilities, Inc.¹ In addition, CSWR-Florida has three (3) pending applications for transfer of facilities, including Forest Utilities, Inc., Orchid Springs Development Corporation, and Deer Creek RV Golf & Country Club, Inc.²

¹ Docket Nos. 20250038-WS (North Peninsula), 20250043-WS (Aquarina), 20250047-WS (Sunshine), 20250130-WS (Neighborhood), and 20250136-WS (Rolling Oaks).

² Docket Nos. 20260019-WS (Forest Utilities), 20250110-WS (Orchid Springs), and 20260075-WS (Deer Creek).

3. On May 6, 2026, OPC moved for official recognition of six (6) categories of documents: (A) Consumer Activity Reports, (B) CSWR Annual Reports, (C) CSWR Utilities Annual Reports, (D) CSWR Customer Correspondence 11.5.2025 to 4.16.2026, (E) CSWR 2025 Property Tax Invoices, and (F) PSC Long Range Program Plan FY 24-25 to 28-29.

4. CSWR-Florida objects to OPC's Motion in its entirety for failure to establish the relevance of the evidence for which it seeks official recognition.

5. Alternatively, if the Prehearing Officer declines to deny the Motion in its entirety, CSWR-Florida specifically objects to the inclusion of certain portions of Exhibits B, C, and D.

6. Specifically, CSWR-Florida objects to official recognition of Exhibit B, CSWR-Florida Annual Reports 2022 to 2024 ("Annual Reports") to the extent any annual reports are included for utilities that are not part of this rate case.

7. CSWR-Florida objects to official recognition of Exhibit C, Annual Reports of CSWR-Florida's systems under prior ownership going back to 2021 ("Prior Annual Reports") specifically as it relates to the proposed "annual report" for the former Rolling Oaks Utilities, Inc. system that is not, in fact, an annual report but rather a final order entered by the Citrus County Board of County Commissioners.

8. CSWR-Florida objects to official recognition of Exhibit D, CSWR Customer Correspondence 11.5.2025 to 4.16.2026 ("Customer Correspondence") specifically as it relates to purported "customer" correspondence for individuals who are not customers of CSWR-Florida.

9. As might be expected given the number of dockets related to CSWR-Florida, at least some of the documents offered for official recognition appear to be related to other CSWR-Florida systems or dockets. Therefore, these documents are irrelevant, hearsay evidence, and not subject to official recognition in this matter pursuant to the Florida Evidence Code.

ARGUMENT

Official recognition in administrative proceedings is governed by the same substantive provisions as judicial notice in civil actions. § 120.569(2)(i), Fla. Stat. (2025); Fla. Admin. Code R. 28-106.213(6). “When official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material. Requests for official recognition shall be by motion and shall be considered in accordance with the provisions governing judicial notice in Sections 90.201-.203, F.S.” *Id.* Here, OPC seeks official recognition of documents under the discretionary provisions of section 90.202, Florida Statutes (“[a] court *may* take judicial notice of the following matters . . .”). § 90.202, Fla. Stat. (2025) (emphasis added).

I. Relevance is Not Established for Each Category of Documents Offered for Official Recognition.

“[D]ocuments admitted via judicial notice are still subject to the same rules of evidence to which all evidence must adhere.” *Michelis v. Nugent*, 412 So. 3d 786, 792 (Fla. 4th DCA 2025). In particular, the Commission recognizes that “[t]he general standard applied to materials listed in Section 202 [of Florida’s Evidence Code] to determine whether they are properly judicially noticed is twofold: *relevancy* and exemption from a claim of privilege. Relevant evidence is evidence *tending to prove or disprove a fact*. All relevant evidence is admissible unless its use is restricted by law or its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, misleading the trier of fact, or being needlessly redundant.” Order No. 20568, *In Re: Fuel & Purchased Power Cost Recovery Clause & Generating Performance Incentive Factor.*, 89 FPSC 1:71, 1989 WL 1639694 (Jan. 9, 1989) (citations omitted) (emphasis added); *see also* Order No. PSC-92-0326-PCO-WS, *In Re: Application for A Rate Increase by Gen. Dev. Utilities, Inc.*, 92 FPSC 5:174, 1992 WL 12596236 (May 11, 1992) (denying official recognition where the offered evidence was not relevant); Order No. PSC-92-1493A-FOF-EQ, *Re*

Florida Power & Light Co., 1993 WL 81535 (Feb. 1, 1993); 29 Am. Jur. 2d Evidence § 25 (“In order to be admissible, evidence must be relevant to the issues in the case. Thus, although a court may judicially notice a variety of matters, only relevant material may be noticed.”).

Here, the Motion fails to identify the relevance of each category of documents offered for official recognition. Instead, the broad assertion is that the documents are “not subject to dispute and [are] capable of accurate and ready determination” *See* Motion, ¶¶ 6-7, 9-10. Proving that a document is authentic and capable of accurate and ready determination under section 90.202, Florida Statutes, does not satisfy the threshold requirement that the evidence must have a tendency to prove or disprove a fact at final hearing. *See* Order No. 20568, *In Re: Fuel & Purchased Power Cost Recovery Clause & Generating Performance Incentive Factor.*, 89 FPSC 1:71, 1989 WL 1639694 (Jan. 9, 1989). The conclusory assertion that the Commission can rely on this evidence “when determining reasonable rates in this docket” does not meet the separate burden of showing how any document will have a tendency to prove or disprove a fact in this matter. Therefore, CSWR-Florida objects to official recognition for all exhibits identified by OPC unless and until relevance is established.

II. Alternatively, Portions of Exhibit B Must Be Excluded: Annual Reports for Utilities Not Included in this Rate Case are Irrelevant.

OPC seeks official recognition of Annual Reports pursuant to Florida’s Evidence Code, sections 90.202(11)-(12), Florida Statutes, which provide “[a] court may take judicial notice of . . . (11) Facts that are not subject to dispute because they are generally known within the territorial jurisdiction of the court. (12) Facts that are not subject to dispute because they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned.” § 90.202(11)-(12), Fla. Stat. (2025).

CSWR-Florida objects to official recognition and/or reliance on pages 620-709 of Exhibit B, which contains an annual report of the former North Charlotte/Sun River system. CSWR-Florida is the court-appointed receiver for this abandoned system, which is not part of the rate case. Accordingly, this “[i]rrelevant, immaterial, or unduly repetitious evidence shall be excluded” § 120.569(2)(g), Fla. Stat. (2025).³

III. Portions of Exhibit C Must Be Excluded: Documents that are Not Annual Reports are Irrelevant.

Similarly, OPC seeks official recognition of Prior Annual Reports pursuant to sections 90.202(11)-(12). However, pages 255-334 of Exhibit C do not contain an annual report. Rather, these pages appear to be a final order entered by the Citrus County Board of County Commissioners (“Final Order 22-01”).

It is unclear whether the inclusion of Final Order 22-01 is simply a scrivener’s error or intended. Regardless, CSWR-Florida objects to its inclusion because it is not a “required financial and operational filing[] submitted to the Commission each year to verify financial stability and review compliance with established regulations” as OPC contends. *See* Motion, ¶ 7. Therefore, those pages should be excluded from official recognition as irrelevant and immaterial. § 120.569(2)(g), Fla. Stat. (2025).

IV. Portions of Exhibit D Must Be Excluded: Customer Correspondence that is Not for Utilities Included in this Rate Case is Irrelevant and Prejudicial.

OPC seeks official recognition of Customer Correspondence pursuant to Florida’s Evidence Code, section 90.202(6), which states that “[a] court may take judicial notice of . . . (6) Records of any court of this state or of any court of record of the United States” § 90.202(6),

³ In the event the Motion is granted, CSWR-Florida reserves the right to object to OPC’s use of any evidence at final hearing, including objections related to completeness and accuracy of the offered Annual Reports.

Fla. Stat. (2025). Generally, judicial notice should not be taken of records of another and distinct case. *Atlas Land Corp. v. Norman*, 116 Fla. 800, 801 (Fla. 1934). “[O]rders and other proceedings which do not properly belong to the record of a case being considered by a court must be proved or in some way directly brought into the record of the pending case” *Id.* at 803; *see also* Order No. PSC-92-0076-PCO-EI, *In Re: Complaint of Consol. Minerals, Inc.*, 92 FPSC 3:308, 1992 WL 12595980 (Mar. 18, 1992) (declining to officially recognize documents from other dockets); Order No. PSC-2025-0370-PCO-EI, *In Re: Petition for Rate Increase by Florida Power & Light Co.*, 2025 WL 2895362, at *2 (Oct. 6, 2025) (“[T]he Commission actively elicits comments from utility customers as part of a rate case. When customers submit comments, the Office of the Commission Clerk files them in the **appropriate docket** and, in essence, the comments become part of the Commission’s file.”) (emphasis added).

OPC offers 102 pages of Customer Correspondence for official recognition. *See* Motion, Ex. D. Of those 102 pages, at least three (3) comments appear to be misfiled in this docket and relate to a wholly separate docket. Specifically, Customer Correspondence from Sandy and Rob McFarlin (Ex. D, pp. 13-16) and Juliann Bratcher (Ex. D, pp. 21-29). Although the McFarlins are customers of the former BFF Corp. Sandlin Woods system, their water services are still provided by Sunshine Water Services Company. To that end, the McFarlins’ specific comments regarding their water service do not relate to CSWR-Florida and, instead, relate to Sunshine Water Services Company. Juliann Bratcher is not a customer of record of CSWR-Florida, and the pictures provided in her correspondence are not of CSWR-Florida’s utilities. Both the McFarlins and Ms. Bratcher reference Docket No. 20240068 – the rate case by Sunshine Water Services Company, not CSWR-Florida.

This correspondence is irrelevant and immaterial to the underlying rate case and should, thus, be excluded. § 120.569(2)(g), Fla. Stat. (2025). Moreover, any official recognition is prejudicial to CSWR-Florida and would permit the introduction of hearsay evidence that is not being used to supplement or explain other evidence. Fla. Admin. Code R. 28-106.213(3). This is improper.⁴

CONCLUSION

WHEREFORE, CSWR-Florida requests the Prehearing Officer deny OPC's Motion.

Respectfully submitted this 13th day of May, 2026.

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⁴ In the event the Motion is granted, CSWR-Florida reserves the right to object to OPC's use of any evidence at final hearing, including objections to the contents of Customer Correspondence as hearsay evidence. See Order No. PSC-2025-0370-PCO-EI, *In Re: Petition for Rate Increase by Florida Power & Light Co.*, 2025 WL 2895362, at *2 (Oct. 6, 2025) ("Official recognition of the comments does not automatically transform their contents into non-hearsay evidence."); *Allstate Ins. Co. v. Greyhound Rent-A-Car, Inc.*, 586 So. 2d 482, 483 (Fla. 4th DCA 1991).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via e-mail on this 13th day of May, 2026, to the following:

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