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Commission Conference Agenda
July 7, 2016

Item 1

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (D. Flores)
Office of the General Counsel (K. Young, S. Hopkins)

RE: Application for Certificate of Authority to Provide Pay Telephone Service

AGENDA: 7/7/2016 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Application for Certificate of Authority to Provide Pay Telephone Service on the consent agenda for approval.

DOCKET NO.	COMPANY NAME	CERT. NO.
160100-TC	Florida Turnpike Services LLC	8892

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entity listed above for payment by January 30.

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (C. Williams, S. Deas)
Office of the General Counsel (S. Hopkins)

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 7/7/2016 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Applications for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

DOCKET NO.	COMPANY NAME	CERT. NO.
160124-TX	TampaBay DSL Inc d/b/a PBX-Change	8894
160079-TX	Mobilitie Management, LLC	8895

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entity listed above for payment by January 30.

Item 2

REVISED 6/23/2016

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (Bates, Fogleman, Salak, Williams)
Office of Auditing and Performance Analysis (Vinson, Lehmann)
Office of the General Counsel (Page) SMC.

RE: Docket No. 140029-TP – Request for submission of proposals for relay service, beginning in June 2015, for the deaf, hard of hearing, deaf/blind, or speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

AGENDA: 07/07/16 – Regular Agenda – Proposed Agency Action for Issue 1 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: September 1, 2016 – Effective date of Florida Telecommunications Relay, Inc. budget. Notification of any change in the Telecommunications Access System Act surcharge must be made to carriers prior to September 1, 2016.

SPECIAL INSTRUCTIONS: Anticipate the need for sign language interpreters and assisted listening devices. Please place near the beginning of the agenda to reduce interpreter costs.

This recommendation replaces the recommendation that was deferred from the 5/5/16 Commission Conference.

Case Background

The Florida Relay System provides deaf and hard of hearing persons access to basic telecommunications services by using a specialized Communications Assistant that relays information between the deaf or hard of hearing person and the other party to the call. The primary function of the Florida Relay System is accomplished by the deaf or hard of hearing person using a Telecommunications Device for the Deaf where the person using the Telecommunications Device for the Deaf types a message to the Communications Assistant who in turn voices the message to the other party, or a Captioned Telephone which displays real-time captions of the conversation.

The Telecommunications Access System Act of 1991 (TASA) established a statewide telecommunications relay system which became effective May 24, 1991. TASA is authorized pursuant to Chapter 427, Florida Statutes (F.S.). Section 427.701(1), F.S., provides that the Florida Public Service Commission (Commission or FPSC) shall establish, implement, promote, and oversee the administration of the statewide telecommunications access system to provide access to telecommunications relay services by persons who are deaf, hard of hearing or speech impaired, or others who communicate with them. It is estimated that approximately 2.5 to 3 million[1] of the estimated 20 million persons living in Florida have been diagnosed as having a hearing loss. This system provides telecommunications service for deaf or hard of hearing persons functionally equivalent to the service provided to hearing persons.

TASA provides funding for the distribution of specialized telecommunications devices and provision of intrastate relay service through the imposition of a surcharge of up to $.25 per landline access line per month. Accounts with over 25 access lines are billed for only 25 lines. Pursuant to Section 427.704(4)(a)1, F.S., a surcharge is collected only from landline access lines.[2]

Florida Telecommunications Relay, Inc. (FTRI), a non-profit corporation formed by the local exchange telephone companies, was selected by the Commission to serve as the Telecommunications Access System Act Administrator. On July 1, 1991, the local exchange telecommunications companies began collecting an initial $.05 per access line surcharge pursuant to Order No. 24581. Since July 1, 1991 the surcharge, which is currently $.12 per month, has changed to reflect FTRI budgetary needs and potential Federal Communications Commission (FCC) mandates.

Chapter 427, F.S., requires that the relay system be compliant with regulations adopted by the FCC to implement Title IV of the Americans with Disabilities Act. The FCC mandates the minimum requirements for services a state must provide, certifies each state program, and periodically proposes changes in the stipulated services.

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[1] 2015 Florida Coordinating Council for the Deaf and Hard of Hearing Biennial Report to Governor Rick Scott, the Florida Legislature & the Supreme Court and "Demographics and Statistics," Florida Telecommunications Relay, Inc., http://ftri.org/index.cfm/go/public.view/page/12, accessed on April 21, 2016.

[2] Florida Telecommunications Relay, Inc. projects a 4 percent decrease in landline access lines subject to the relay surcharge for the budget year 2016/2017.

The current relay service provider in Florida is Sprint. The FPSC awarded the contract to Sprint, effective March 1, 2015, for a period of three years. The contract contains options to extend the contract for four additional one-year periods, and requires mutual consent by both parties to extend the contract.

Staff sent a data request to FTRI on a number of issues included in its proposed budget. FTRI's responses to staff's data request are included in the docket file. In order to perform additional analysis, staff deferred this item from the May 5, 2016 Agenda Conference. This time allowed staff to thoroughly review additional information for the FTRI proposed budget and to assess the budget results for Fiscal Year 2015/2016 using the latest actual information which became available on May 16, 2016. Based on having more actual data for Fiscal Year 2015/2016, staff has estimated the actual FTRI expenses for Fiscal Year 2015/2016 and they are presented in Option 2 under Issue 1 of the recommendation. Staff used actual data from June 2015 through March 2016 and estimated the fourth quarter by averaging the first three quarters of the fiscal year.

In 2013 the Office of Auditing and Performance Analysis performed a management audit of FTRI. The audit produced seven findings and corresponding recommended actions (Attachment C). To assist the current analysis, audit staff updated portions of its analysis and conducted a limited assessment of improvements FTRI has implemented in response to the 2013 findings.

Through its recent analysis, audit staff concluded that FTRI had undertaken largely responsive and reasonable efforts to implement the suggested improvements from 2013. However, audit staff noted that FTRI's Fiscal Year 2016/2017 proposed expenditures interrupts a three-year trend of reducing total expenditures.

Staff contacted FTRI and its Board and requested that the FTRI budget be refiled using the actual amounts for expenses from the previous year. The Board voted to keep the budget as they originally filed it.

Decertification from the National Deaf-Blind Equipment Distribution Program

FTRI was certified by the FCC to participate in the National Deaf-Blind Equipment Distribution Program (NDBEDP)[3] and receive reimbursement from the Federal TRS Fund in 2012. Under current FCC guidelines, FTRI is reimbursed for some expenses related to administering the program, including equipment purchased and distributed, assessment of clients, and training of clients. Administrative costs are capped at 15 percent of the reimbursement expenses.

As presented in Attachment B, on March 28, 2016, after it submitted its Fiscal Year 2016/2017 proposed budget, FTRI submitted a letter to the Commission communicating that it will decertify from the NDBEDP. In the letter, FTRI explains that the FTRI Board directed that participation in the NDBEDP not adversely impact FTRI's TASA function in Florida. FTRI further explains that

[3] The NDBEDP, also known as iCanConnect, provides equipment needed to make telecommunications, advanced communications, and the Internet accessible to low-income individuals who have both significant vision loss and significant hearing loss. It was established and funded by the Federal Communications Commission in an effort to comply with the 21st Century Video and Communications Accessibility Act, a federal law that requires people with disabilities to have access to modern communications technology that enables distance communication.

its continued participation in the NDBEDP would result in absorbing some of the cost through its state relay budget. FTRI revenues for Fiscal Year 2015/2016 from the NDBEDP for Q1 and Q2 were $66,149 and expenses were $76,702, resulting in a net loss of $10,553.

FTRI believes continued participation in the program may lead to increased losses due to the 15 percent administrative cap. Further, FTRI states that reimbursable expenses are shifting to lower cost equipment offered through the program, yielding a lower administrative reimbursement using the 15 percent cap.

If FTRI decertifies with the FCC, it is anticipated that the program and its offered services will continue with another entity distributing the NDBEDP equipment for the deaf-blind, low-income Floridians. The FCC will make that determination after reviewing interested applicants' proposals.

The full impact of continuing to participate in the NDBEDP on FTRI's proposed Fiscal Year 2016/2017 budget would be a projected $61,820 loss as presented by FTRI in its Fiscal Year 2015/2016 Estimated Revenue & Expenses as presented in Attachment A.

The purpose of this recommendation is to address the FTRI proposed Fiscal Year 2016/2017 budget and determine what the relay surcharge should be for the upcoming fiscal year. The Commission is vested with jurisdiction pursuant to Chapter 427, F.S.

Discussion of Issues

Issue 1: Should the Commission approve FTRI's proposed budget, excluding the National Deaf-Blind Equipment Distribution Program, for Fiscal Year 2016/2017, and should the Commission maintain the current Telecommunications Relay Service (TRS) surcharge of $0.12 per month?

Recommendation: No, staff recommends that the budget expenses should be reduced by $601,238. Attachment D reflects the line-by-line adjustments that are being recommended. The surcharge should be reduced to $0.11 beginning September 1, 2016. If necessary, FTRI should be allowed to use the surplus account if there is a revenue shortfall in Fiscal Year 2016/2017. (Salak, Fogleman, Williams, Bates, Vinson, Lehmann, Page)

Staff Analysis:

Traditional Telecommunications Relay Service

Minutes of use for traditional TRS have been declining. Sprint's projections indicate that traditional minutes will continue to decline during the 2016/2017 Fiscal Year. Traditional relay users are transitioning to Internet Protocol Relay,[4] Video Relay Service,[5] Captioned Telephone Service,[6] Internet Protocol Captioned Telephone Service,[7] Internet Protocol Speech-to-Speech (STS) service,[8] and wireless service. The traditional TRS cost as approved in Sprint's contract remains at $1.09 per session minute.

[4] IP Relay allows people who have difficulty hearing or speaking to communicate through an Internet connection using a computer and the Internet, rather than a TTY and a telephone.

[5] Video Relay Service is a form of Telecommunications Relay Service that enables persons with hearing disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a TRS operator so that the VRS user and the operator can see and communicate with each other in signed conversation. Because the conversation between the VRS user and the operator flows much more quickly than with a text-based TRS call, VRS has become a popular form of TRS.

[6] A telephone that displays real-time captions of a conversation. The captions are typically displayed on a screen embedded into the telephone base.

[7] IP captioned telephone service allows the user to simultaneously listen to, and read the text of, what the other party in a telephone conversation has said, where the connection carrying the captions between the service and the user is via an IP addressed and routed link.

[8] Speech-to-Speech (STS) relay service utilizes a specially trained CA who understands the speech patterns of persons with speech disabilities and can repeat the words spoken by such an individual to the other party to the call. IP STS uses the Internet, rather than the public switched telephone network, to connect the consumer to the relay provider. Instead of using a standard telephone to make the relay call, an IP STS user can use a personal computer or personal digital assistant (PDA) device and, with the installation of softphone application software, can make a voice call via the Internet to the relay provider. The call is initiated by the user clicking on an icon on his or her computer or PDA; the relay user is then connected to a CA over the Internet and tells the CA the number to be dialed; the CA then connects the IP STS user with the called party and relays the call between the two parties.

CapTel Service

CapTel service uses a specialized telephone that provides captioning of the incoming call for a deaf or hard of hearing person. Sprint's projections show that CapTel minutes of use will also decrease during the 2016/2017 Fiscal Year. The CapTel cost as approved in the Sprint contract remains at $1.63 per session minute.

Florida Telecommunications Relay Inc. Budget

Attachment A reflects FTRI's 2016/2017 Fiscal Year proposed budget, which was reviewed and adopted by FTRI's Board of Directors prior to filing with the Commission. The proposed budget includes a decrease in expenses of approximately $774,299 from the Fiscal Year 2015/2016 Commission approved budget. The FTRI 2016/2017 proposed budget projects total operating revenues to be $8,269,418 and total expenses to be $7,977,633. FTRI believes the Telecommunications Relay surcharge should remain at $0.12 per access line for the 2016/2017 Fiscal Year.

Sprint's estimated Fiscal Year 2016/2017 traditional Telecommunications Relay surcharge minutes of use are 1,013,262 at a rate of $1.09 per minute for a total of $1,104,456. Sprint's estimated CapTel minutes of use for Fiscal Year 2016/2017 are 1,280,726 at a rate of $1.63 per minute for a total of $2,087,583.

The biggest decrease in expense in the budget arises from relay provider services, resulting in $779,460 in savings when compared to the Fiscal Year 2015/2016 Commission approved budget. The largest increase in the budget is associated with FTRI Outreach. FTRI's Outreach expense increased by $153,674 over the Fiscal Year 2015/2016 Commission approved budget and FTRI's 2015/2016 estimated expenditures for Outreach.

Not including Category I, the relay provider expense or NEBEDP, FTRI's proposed budget includes a net increase in expenses for categories II-V of $1,386 compared to the approved budget for Fiscal Year 2015/2016; $383,346 compared to FTRI's estimated actual for Fiscal Year 2015/2016; and $305,387 compared to staff's estimate of actual expense for Fiscal Year 2015/2016.

A comparison of FTRI's Fiscal Year 2015/2016 Commission approved budget and FTRI's Fiscal Year 2016/2017 proposed budget as filed is shown in Table 1 below.

Table 1
FTRI Fiscal Year 2016/2017 Budget Comparison

	Commission Approved 2015-2016	FTRI Proposed 2016-2017
Operating Revenue:		
Surcharges	$8,249,890	$7,762,706
Interest Income	33,941	34,188
NDBEDP[9]	468,749	472,524
Total Operating Revenue	$8,752,580	$8,269,418
Operating Expenses:		
Relay Provider Services	$3,971,499	$3,192,039
Equipment and Repairs	1,690,386	1,621,478
Equipment Distribution And Training	1,054,737	950,403
Outreach	574,626	728,300
General & Administrative	991,935	1,012,889
NDBEDP	468,749	472,524
Total Expenses	$8,751,932	$7,977,633
Annual Surplus	648	291,785
Total Surplus[10]	$15,723,243	$16,274,881

Source: FTRI's Fiscal Year 2016/2017 proposed budget.

Analysis

Staff believes there are several approaches that could be used to determine the appropriate FTRI budget for Fiscal Year 2016/2017. Staff will provide three options for the Commission's consideration as presented in Attachment D. As previously mentioned, Relay and CapTel expenses from Sprint (Category I) are projected to decline as a result of reduced minutes. All other expense categories in FTRI's Fiscal Year 2016/2017 proposed budget are projected to increase over the actual expenses for Fiscal Year 2015/2016 as presented by FTRI.

Staff believes that Category I, the Sprint relay charges, should not be adjusted for any of the three options. The minutes of use have been projected by Sprint. It has multi-state experience with such projections and its historic projections have proven to be reasonable. In addition, staff

[9] National Deaf Blind Equipment Distribution Program.

[10] The Federal Communications Commission may mandate state funding of Video Relay Service, Internet Protocol Relay Service, and Internet Protocol Captioned Telephone Service. It is estimated that at a minimum $32 million would be needed to adequately fund the state program. The Commission, by Order PSC-06-0469-PAA-TP, issued June 1, 2006, in Docket No. 040763-TP, maintained the Florida Telecommunications Relay Service surcharge at $0.15/month for one year in lieu of a surcharge reduction, to prepare the state Telecommunications Relay Service Fund for assuming intrastate costs of Video Relay Service and Internet Protocol Relay, and to allow time to determine how the costs should be recovered should the need arise.

believes that FTRI's projection methodology of the revenues for Fiscal Year 2016/2017 is reasonable and should also be used for the three options.

Option 1: Adjustments to the Budget on a Line-by-Line Basis

The number of access lines assessed the relay surcharge is declining and has been for a number of years. The costs of Florida's relay program are being spread among a fewer number of consumers as the number of landlines decline. In addition, the equipment that can be distributed by FTRI's equipment distribution program is limited by the relay statute. Based upon the premise that wireline access lines are declining and the number of FTRI eligible clients is declining as customers convert from landline to other technologies, Option 1 is designed to adjust each of the expense categories to insure that the expenses reflect the necessary costs to serve the program. With this goal in mind, staff recommends the following adjustments to the FTRI budget.

In the 2013 management audit report, audit staff calculated FTRI's "core" operating expenditures per new client added. Core operating expenditures was defined as expenses for equipment, equipment distribution, repairs, training, outreach and general administration. The following chart displays updated results.

Table 2
Florida Telecommunications Relay, Inc.
Core* Operating Expenditures per New Client
Fiscal Year 2010-2017

	FY '10-'11	FY '11-'12	FY '12-'13	FY '13-'14	FY '14-'15	*Projected* FY '15-'16	*Budget* FY '16-'17
Total Core* Expenditures	$5,891,703	$5,066,067	$4,634,021	$4,166,422	$4,071,914	$4,007,686	$4,313,070
Total New Clients	24,399	19,287	15,078	13,671	13,408	*13,408***	*13,408***
Ratio Expenditures/ New Client	**$241**	**$263**	**$307**	**$305**	**$304**	**$299**	**$322**

*Core expenditures include Equipment/Repairs/Distribution/Training, Outreach, and General/Administrative

**Assumed for illustration purposes by audit Staff to equal 2014-2015 total

Staff and FTRI recognize that FTRI provides service to more clients than just the new ones; however, this chart provides focus on the dollar impact of FTRI's outreach efforts. Within its Fiscal Year 2016-2017 budget, FTRI proposes increased core operating expenses, which combined a continued decline in new clients, would result in a significant increase costs per new client.

Category I-Relay Service

As previously discussed, staff recommends that no adjustments should be made to this category.

Category II-Equipment & Repairs

Category II reflects the purchases of the equipment to be distributed to clients and the repairs that FTRI must do to keep the equipment in working order. Staff has reviewed the workpapers to

determine the amounts of equipment purchases for the year. Most of the line items are based upon the historic twelve-month period to determine the level that will be needed for the upcoming year. Staff is recommending several adjustments in this category:

- VCP Hearing Impaired[11] equipment should be reduced from $1,434,745 to $1,291,270, a reduction of $143,475. Staff believes the recommended reduction in Category IV-Outreach will decrease demand. VCP Hearing Impaired equipment is currently the equipment most widely distributed. The $143,475 adjustment represents ten percent of the FTRI proposed amount budgeted for this line item.

- TeliTalk Speech Aid[12] equipment should be reduced from $15,000 to $10,000. The actual amount for Fiscal Year 2015/2016 appears to be below the estimated amount for Fiscal Year 2015/2016. FTRI indicates it missed one of the state events that generates interest in the TeliTalk Speech Aid equipment, so staff suggests a $5,000 disallowance in the budget rather than further decreasing the amount.

- VRS-Signaling[13] equipment should be reduced from $15,246 to $10,000. The actuals for Fiscal Year 2015/2016 appears to be lower than projected. However, a price increase is expected. Staff is recommending a $5,246 adjustment to account for the lower demand in the last year, but accounting for the price increase.

- Equipment Accessories/Supplies should be reduced from $1,886 to $900 since there was lower expense in Fiscal Year 2015/2016 than expected. Staff recommends a $986 reduction in the allowed budget request.

Category III-Equipment Distribution & Training

Category III reflects the cost of the distribution of equipment throughout the state and the training of consumers in the use of the equipment. FTRI contracts with Regional Distribution Centers (RDCs), many of which are non-profit agencies, to perform these functions throughout Florida. Currently there are 23 RDCs.

Based upon staff's estimates of the actual costs of the RDCs for Fiscal Year 2015/2016, staff believes the requested amount is already below actual costs for Fiscal Year 2015/2016. However, staff proposes decreasing the amount since staff believes demand for equipment will decline if staff's recommendation in Category IV-Outreach is adopted. Consistent with the adjustment for equipment, the amount in the budget is adjusted by ten percent for a total of $90,108. Staff also believes an adjustment to Training Expense for RDCs is appropriate by decreasing the proposed budget amount by $800. Much of the training is conducted through webinars which should reduce the costs.

[11] VCP Hearing Impaired Equipment – Volume Control Telephones for individuals who are hard of hearing.
[12] TeliTalk Speech Aid Equipment – Allows an individual with a Laryngectomee to speak on the phone using a built in speech aid.
[13] VRS-Signaling Equipment – Video telephone that allows individuals to communicate via a sign language interpreter.

Category IV-Outreach
FTRI has requested $728,300, an increase of $153,674 over last year's budget for Outreach. FTRI's Outreach expense includes RDC Outreach at community events; printed materials such as brochures, postcards, banners, and flyers; a marketing campaign including newspaper advertising, magazines, social media, and other marketing tools; partnerships with service provider associations; and attendance at statewide conferences. The marketing campaign and the RDC Outreach are the two most expensive programs in the overall Outreach plan. FTRI has made commitments for this budget year to spend the total amount of the Outreach budget for Fiscal Year 2015/2016. Staff recommends that the proposed FTRI Outreach budget be adjusted from $728,300 to $500,000 with FTRI determining where the Outreach dollars should be spent. Reducing the Outreach is consistent with the basic premises of Option 1. The recommended amount is $74,626 less than the amount budgeted and spent in Fiscal Year 2015/2016. Staff recommends that Outreach should be reduced by $228,300.

Category V-General & Administrative
Category V reflects the expenses associated with FTRI's office and furnishings, employees, contracted services (auditors, attorney, computer consultants), computers and other operating expenses. It should be noted that FTRI has reduced its full-time employees from 15 to 10 since Fiscal Year 2010/2011.

Staff is recommending that the following adjustments be made to Category V's proposed budget:

- Advertising should be reduced by $1,313. FTRI states that they increased the amount for advertising vacancies based on the assumptions of two vacancies and possibly needing to advertise for each vacant position twice. During Fiscal Year 2015/2016, FTRI had two vacancies and has not needed to advertise twice.

- Legal expense should be reduced from $72,000 to $36,000. FTRI has had the same law firm on retainer for many years. The attorney attends the board meetings and writes the minutes, reviews Request For Proposals, reviews contracts, and advises on legal issues as they arise. It would appear that paying the attorney an hourly rate may be more cost effective than paying a retainer. Staff recommends that the attorney fees be cut in half, an adjustment of $36,000.

- Consultation-Computer expense should be reduced from $15,980 to $8,100. For Fiscal Year 2015/2016, staff and FTRI's actual expenses were about $8,100. FTRI's proposed budget for this account includes Network Administration for the FTRI server in the Tallahassee office and additional desktop computer support for four hours a week for $50 per hour. Staff recommends the budget should be based on last year's budget amount for an adjustment of $7,880.

- Insurance-Health/Life Disability expense should be reduced from $165,735 to $147,949. When determining the amount to propose for this insurance in the budget, FTRI made the decision to exclude a reduction for Health Care Credit stating there is uncertainty in the credit amount and whether it will exist during the entire budget period due to legislation.

Staff recommends the full credit of $17,786 from Fiscal Year 2015/2016 be used to adjust the FTRI budget amount.

- Insurance-Health/Life Disability expense should be reduced by another $16,299.83. This amount is related to the short-term disability and long-term disability that FTRI provides as a benefit. While this insurance may be beneficial to the employee, it goes well beyond what an organization must offer its employees. The landline customers should not be required to pay for this type of insurance.

- Retirement should be reduced by $14,232. Currently, 11.1 percent of salaries is put into a retirement account for the employees. The employees are not required to pay for any of their retirement. This adjustment would reflect that only 8.1 percent of the salaries would be paid by FTRI with the rest being paid by the employee. Many companies require matching of retirement contributions. In addition to paying the 11.1 percent, FTRI would still need to pay the 2.34 surcharge to the pension benefit company.

- Employee Compensation should be reduced by $12,653. Included in FTRI's proposed budget is a three percent compensation increase for all employees. Based on historic information, raises are not given across the board annually. However, most employees have received a salary increase within the past three years. Given the audit finding that the employee related expenses per FTE are high, no increase should be allowed for this budget cycle.

- Temporary Employment is used mainly when an employee resigns. During the hiring period, a temporary employee is hired to do tasks that cannot wait for the permanent position to be filled. Temporary employees are also sometimes used to help in times of extreme workload. Staff suggests the proposed budget amount should be reduced by $9,400. The employment compensation includes the full salary for ten people. If the Salary is included in the employment compensation account and the temporary employment account, staff believes there is double counting. Staff recommends an adjustment of $9,400 be made to this account leaving $1,000 if there are times of high workload.

- Taxes-Payroll should be reduced by $959 as a result of staff's recommendation to eliminate the three percent increase in Employment Compensation.

- Travel and Business Expense is used for travel to non-outreach trips, conferences and training. The budget includes two trips that were not included in last year's budget. In addition, it is not anticipated that Fiscal Year 2015/2016 Travel and Business Expense will be any greater than $11,430 and will more than likely be lower. Staff recommends reducing this budget by $8,700, from $18,700 to $10,000.

- Employee Training should be adjusted by $2,100. One of the items in the budget is a meeting that falls outside of the time frame for Fiscal Year 2016/2017. The Employee Training expense account is proposed by FTRI to be $5,300. After the adjustment, the budget for this account would be $3,200.

The total difference between staff's Option 1 budget and FTRI's proposed budget is $601,238. Under Option 1, the TRS surcharge may be reduced to $0.11 from the current $0.12. There is an allowance for a margin of error of $427,710 before the surplus fund would need to be used. If the Commission chooses to reduce the surcharge to $0.11, staff recommends that FTRI be able to use the money from the surplus account to cover any shortfalls in revenue for Fiscal Year 2016/2017.

Option 2 Adjustments to the Budget to Reach Last Year's Actual Expenses

Under Option 2, FTRI's budget for Fiscal Year 2016/2017 would be predicated on the actual expense level for Fiscal Year 2015/2016. For Fiscal Year 2015/2016, FTRI estimated the actual expenses by including six months of actual data and six months of estimated data based on a combination of actual data and projections of any changes.

On May 16, 2016, FTRI filed its quarterly report with actual data for the third quarter of Fiscal Year 2015/2016. Staff used that information to update the "actual" amounts for Fiscal Year 2015/2016 with nine months (three quarters) of actual data and three months (one quarter) of estimated data. Staff estimated the fourth quarter by averaging the first three quarters of actual data and using it as a proxy for the fourth quarter.

Staff made three category exceptions in its calculations of its actual results. First, Category I-Relay Services includes the amount recommended for Fiscal Year 2016/2017 in all options. The second adjustment is to Category IV-Outreach. The outreach money has been committed so the amount budgeted for this item for Fiscal Year 2015/2016 will substantially be used by year end. The last proposed adjustment is to Category V-Advertising. Staff recognizes that FTRI currently has one vacancy; however actual advertising expenses for Fiscal Year 2014/2015 were significantly below average during this time period. Staff believes that a better estimate for advertising expenses would be an average based on actual expenses for the prior three years.

Since staff's results for Fiscal Year 2015/2016 are based on more actual data, staff believes staff's estimates for Fiscal Year 2015/2016 should be used for purposes of this option and should be considered the actual results for Fiscal Year 2015/2016.

The total expenses would be $7,199,722. This represents a reduction from FTRI's proposed budget of $305,387. FTRI will be given the flexibility to determine where the reductions would occur in Categories II-V. The Category I-Relay Services should remain as projected.

Under Option 2, the surcharge should remain at $0.12. However, the Commission could reduce the surcharge to $0.11 with the understanding that the difference would be taken from the surplus account. Under the revenue forecast, at least $48,519 would be removed from the surplus account.

Option 3 The Budget as Proposed by FTRI

In Option 3, FTRI's proposed budget operating revenue of $7,796,894 and proposed budget expenses of $7,505,109, excluding the National Deaf-Blind Equipment Distribution Program, for Fiscal Year 2016/2017, would be approved, and the current TRS surcharge of $0.12 per month would be maintained. FTRI would be allowed to increase its outreach expenses as a pilot to

targeted newspaper insert program with data to be filed with its annual budget request indicating the program's effectiveness. FTRI's budget is building upon past experience using the targeted newspaper insert ad strategy, RDC outreach partnerships, and a comprehensive marketing plan to expand its outreach efforts. FTRI's goal is to promote, educate, and increase awareness about FTRI, the Equipment Distribution Program (EDP), and Florida Relay, with the ultimate goal of recruiting new clients.

FTRI has experimented with newspaper inserts from 2012 to present. FTRI plans to advertise the relay program all year, primarily using insert advertisements in newspapers. In support of its advertising strategy, and as discussed earlier, FTRI presents the following points:

- Scarborough, a Nielsen service, released a report in March 2015 that 71.7 percent of US populations 65+ still read the Daily or Sunday newspaper.

- Scarborough also reported that 71.9 percent of the total Top 7 Florida markets read a Daily or Sunday paper (Tampa-St. Pete-Sarasota, Miami-Ft. Lauderdale, Orlando-Daytona Beach-Melbourne, West Palm Beach-Ft Pierce, Jacksonville).

- In an article published in January 2015 by Pew Research Center, 84 percent of people 65+ still have landlines.

The newspaper inserts are targeted to zip codes with a high population of residents over 65 years old. Statistics indicate that one in three people over 65 have a hearing loss. FTRI has conducted various Outreach projects in the past including newspaper, community events, and joint efforts with the Regional Distribution Centers. However, the strategy of using newspaper insert advertisements on a statewide basis is a new and more intense effort.

The idea of using insert advertisements that can be pulled out of newspapers may prove to have a positive impact on the relay program. Under this option, the targeted newspaper insert program could be approved on a pilot basis during the Fiscal Year 2016/2017 budget year. FTRI could present its results and findings in its proposed Fiscal Year 2017/2018 budget to the Commission to determine its effectiveness. During the April 13, 2016 TASA meeting, a member of the TASA Committee shared that his organization has seen an increase in the distribution of equipment as result of FTRI's outreach efforts. If this program is successful, the expenses for equipment, maintenance, and repair should increase over estimated expenses as reflected in FTRI's proposed budget.

FTRI believes potential benefits of FTRI's newspaper ad strategy is confirmed by comparing the Scarborough and Pew Research Center data showing that a large percentage of the population 65 and older read the daily newspaper and still have landline phones, to the FTRI data on clients served. Ninety-one percent of FTRI's new clients during the Fiscal Year 2014/2015 budget year were age 60 or older. More clients in the 80 to 89 age group received equipment than those of any other age group.

In addition, FTRI's outreach strategy for Fiscal Year 2016/2017 would continue to focus on RDC Agreements, digital ad networks, email blasts, and social media such as Facebook, Twitter,

and Google Ad Words. Further, FTRI plans to continue to build partnerships with similar organizations that serve similar target populations.

The Commission's audit staff conducted a performance analysis audit of FTRI in 2013 and issued several recommendations related to FTRI's operations, including the establishment of evaluative measures to assess RDC performance. In response to the audit recommendation to establish RDC performance measures, FTRI implemented a $50 expense cap per new client for RDC outreach events. FTRI believes its efforts appear to have produced positive results in reducing outreach event expenses and more successfully reaching clients as recommended by the 2013 performance audit.

If FTRI's primary goal of increasing outreach efforts is to expand participation in the Florida relay program, FTRI equipment distribution, equipment repair, and RDC training and equipment distribution should also increase.

Under Option 3, the surcharge should remain at $0.12. The Commission could still reduce the surcharge to $0.11 with the understanding that the difference would be taken from the surplus account. Under this option, at least $355,107 would be removed from the surplus account.

Conclusion

Staff has reviewed FTRI's Fiscal Year 2016/2017 Fiscal Year budget request and has provided three options for the Commission to consider. Staff recommends Option 1 which makes specific adjustments to FTRI's Fiscal Year 2016/2017 as reflected in Attachment D. Staff further recommends that the TRS surcharge be reduced to $0.11 per month per access line up to 25 access lines for the Fiscal Year 2016/2017, effective September 1, 2016. Staff also recommends that FTRI be granted the flexibility to move budgeted funds within the same category, if needed, for expense categories II through V, with one exception. Specifically, this flexibility would not extend to employee related expenses in Category V. The Commission should order all telecommunications companies to begin billing the $0.11 surcharge for the Fiscal Year 2016/2017, effective September 1, 2016. If there are any revenue shortfalls, the surplus account should be used to cover the shortfall for Fiscal Year 2016/2017.

Issue 2: Should the Commission approve the appointments of Mr. Tom D'Angelo and Mr. Tim Wata to the TASA Advisory Committee effective immediately?

Recommendation: Yes. Staff recommends that the Commission approve the appointments of Mr. Tom D'Angelo and Mr. Tim Wata to the TASA Advisory Committee effective immediately. (Williams, Bates, Page)

Staff Analysis: Section 427.706, Florida Statutes, provides that the Commission shall appoint an advisory committee of up to 10 members to assist the Commission with Florida's relay system. By statute, the advisory committee provides the expertise, experience, and perspective of persons who are deaf, hard of hearing, or speech impaired to the Commission and the administrator during all phases of the development and operation of the telecommunications access system. The advisory committee advises the Commission and the administrator on the quality and cost-effectiveness of the telecommunications relay service and the specialized telecommunications devices distribution system. Members of the committee are not compensated for their services but are entitled to per diem and travel expenses provided through the Florida Public Service Commission's Regulatory Trust Fund.

Mr. Tom D'Angelo and Mr. Tim Wata were nominated for appointment to the TASA Advisory Committee by the Florida Association of the Deaf. If approved by the Commission, they will replace Mr. Jon Ziev and Mr. Louis Schwarz who both resigned their positions on the TASA Advisory Committee as representatives for the Florida Association of the Deaf.

Mr. D'Angelo has over 15 years' experience in the telecommunications industry. Mr. D'Angelo's previous positions include serving as the Florida Account Manager with Sprint Relay and Outreach Director for Communication service for the Deaf. Mr. D'Angelo is currently an active member of the Florida Association of the Deaf.

Mr. Wata has vast technical experience in Computer Science. Mr. Wata is currently a Staff research Engineer with Lockheed Martin Corporation. In addition to volunteering with the Florida Association of the Deaf, Inc., Mr. Wata also has volunteered with the Deaf Service Center of Greater Orlando, Inc., the Center for Independent Living in Central Florida, Inc., and the Florida Rehabilitation Advisory Council.

Therefore, staff recommends that the Commission approve the appointments of Mr. Tom D'Angelo and Mr. Tim Wata to the TASA Advisory Committee effective immediately.

Issue 3: Should this docket be closed?

Recommendation: No. A Consummating Order should be issued for Issue 1, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. The docket should remain open to address all matters related to relay service throughout the life of the current Sprint contract. (Williams, Bates, Page)

Staff Analysis: A Consummating Order should be issued for Issue 1, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. The docket should remain open to address all matters related to relay service throughout the life of the current Sprint contract.

Florida Telecommunications Relay, Inc.
FTRI

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March 7, 2016

Mr. Curtis Williams, Regulatory Analyst IV
Office of Telecommunications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0866

RE: **FTRI FY 2016/2017 Budget**

Dear Mr. Williams:

I am pleased to forward a copy of the FY 2016/2017 budget that was recently approved by the Florida Telecommunications Relay, Inc. (FTRI) Board of Directors. The budget was reviewed by our Budget Committee and was adopted by the Board at a special meeting recently.

The budget adopted by the board for FY 2016/2017 maintains the surcharge at the current rate of 12 cents per access line and at this level is projected to produce revenues of $7,796,894. As reflected on the attached copy of the approved budget total expenses are projected to be $7,505,109.

Access lines have decreased at the rate of 4.7% during the past three years (2013, 2014 & 2015) and that trend is expected to continue as more consumers move from landline to other technologies. For the budget period it is projected that access lines will decrease over 4%.

As of February 2016, FTRI has over 507,498 individuals in the client database. FTRI and its regional partners continue to reach out to meet the telecommunications access needs of residents who are deaf, hard of hearing, deaf/blind, or speech disabled. Outreach continues to be a large part of our efforts to attract new clients and educate the general population about the Florida Relay System and the benefits this brings to our citizens.

Should you have questions or desire additional information, please do not hesitate to email me at jforstall@ftri.org.

Sincerely,

James Forstall
Executive Director

Enclosure

cc: FTRI Board of Directors

Florida Telecommunications Relay, Inc.
Fiscal Year 2016/2017 Budget @ .12 cents surcharge

		2015/2016 APPROVED BUDGET	2015/2016 ESTIMATED REV & EXPEND	2016/2017 PROPOSED BUDGET	VARIANCE 2015/2016 2016/2017
	OPERATING REVENUE				
1	Surcharges	8,249,890	8,086,152	7,762,706	(487,184)
2	Interest Income	33,941	23,174	34,188	247
3	NDBEDP	468,749	155,578	472,524	3,775
	TOTAL OPERATING REV	8,752,580	8,264,904	8,269,418	(483,162)
	OTHER REVENUE/FUNDS				
4	Surplus Account	15,722,595	15,682,385	15,983,096	260,501
	TOTAL REVENUE	24,475,175	23,947,289	24,252,514	(222,661)
	OPERATING EXPENSES				
	CATEGORY I - RELAY SERVICES				
5	DPR Provider	3,971,499	3,817,071	3,192,039	(779,460)
	SUBTOTAL-CATEGORY I	3,971,499	3,817,071	3,192,039	(779,460)
	CATEGORY II - EQUIPMENT & REPAIRS				
6	TDD Equipment	0	0	0	0
7	Large Print TDD's	0	0	568	568
8	VCO/HCO - TDD	720	1,150	1,150	430
9	VCO Telephone	0	0	0	0
10	Dual Sensory Equipment	5,000	0	5,000	0
11	CapTel Phone Equipment	0	0	0	0
12	VCP Hearing Impaired	1,440,645	1,414,033	1,434,745	(5,900)
13	VCP Speech Impaired	1,386	554	693	(693)
14	TeliTalk Speech Aid	18,000	10,800	15,000	(3,000)
15	Jupiter Speaker phone	0	0	0	0
16	In-Line Amplifier	0	0	0	0
17	ARS Signaling Equip	6,501	4,204	5,418	(1,083)
18	VRS Signaling Equip	16,080	8,577	15,246	(834)
19	Accessories & Supplies	2,980	1,481	1,886	(1,094)
20	Telecomm Equip Repair	199,074	99,742	141,772	(57,302)
	SUBTOTAL-CATEGORY II	1,690,386	1,540,541	1,621,478	(68,908)
	CATEGORY III - EQUIPMENT DISTRIBUTION & TRAINING				
21	Freight-Telecomm Equip	74,314	45,072	47,325	(26,989)
22	Regional Distr Centers	978,423	860,762	901,078	(77,345)
23	Workshop Expense	0	0	0	0
24	Training Expense	2,000	936	2,000	0
	SUBTOTAL-CATEGORY III	1,054,737	906,770	950,403	(104,334)

Florida Telecommunications Relay, Inc.
Fiscal Year 2016/2017 Budget @ .12 cents surcharge

		2015/2016 APPROVED BUDGET	2015/2016 ESTIMATED REV & EXPEND	2016/2017 PROPOSED BUDGET	VARIANCE 2015/2016 2016/2017
CATEGORY IV - OUTREACH					
25	Outreach Expense	574,626	574,626	728,300	153,674
	SUBTOTAL-CATEGORY IV	574,626	574,626	728,300	153,674
CATEGORY V - GENERAL & ADMINISTRATIVE					
26	Advertising	2,641	1,320	2,633	(8)
27	Accounting/Auditing	24,896	21,398	22,300	(2,596)
28	Legal	72,000	71,550	72,000	0
29	Computer Consultation	23,970	8,084	15,980	(7,990)
30	Dues & Subscriptions	3,034	2,784	2,798	(236)
31	Office Furniture Purchase	250	0	250	0
32	Office Equipment Purchase	12,500	8,069	9,990	(2,510)
33	Office Equipment Lease	1,886	1,678	1,876	(10)
34	Insurance-Hlth/Life/Dsblty	158,262	124,882	165,735	7,473
35	Insurance-Other	8,897	6,064	9,844	947
36	Office Expense	16,524	16,389	17,496	972
37	Postage	9,917	8,087	8,124	(1,793)
38	Printing	1,537	1,289	1,295	(242)
39	Rent	91,280	92,166	93,419	2,139
40	Utilities	5,808	5,254	5,281	(527)
41	Retirement	58,575	57,717	59,694	1,119
42	Employee Compensation	408,471	403,461	430,264	21,793
43	Temporary Employment	8,000	7,230	10,400	2,400
44	Taxes - Payroll	32,507	30,899	32,916	409
45	Taxes - Unemplmt Comp	1,863	1,651	1,663	(200)
46	Taxes - Licenses	65	65	65	0
47	Telephone	18,670	15,765	16,708	(1,962)
48	Travel & Business	16,296	11,430	18,700	2,404
49	Equipment Maint.	1,353	1,281	1,287	(66)
50	Employee Training/Dev	7,000	3,475	5,300	(1,700)
51	Meeting Expense	5,733	5,599	6,871	1,138
52	Miscellaneous Expense	0	0	0	0
	SUBTOTAL-CATEGORY V	991,935	907,787	1,012,889	20,954
CATEGORY VI - NDBEDP					
53	NDBEDP - Expense	468,749	217,398	472,524	3,775
	SUBTOTAL-CATEGORY VI	468,749	217,398	472,524	3,775
	TOTAL EXPENSES	8,751,932	7,964,193	7,977,633	(774,299)
REVENUE LESS EXPENSES		15,723,243	15,983,096	16,274,881	551,638

Florida Telecommunications Relay, Inc.
FTRI

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March 28, 2016

Beth Salak, Director
Office of Telecommunications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Dear Beth:

This is to follow up on your conversation with our counsel regarding the National Deaf-Blind Equipment Distribution Program (NDBEDP) administered by the Federal Communications Commission (FCC) and our consideration to decertify as a participant in that program. After further review and analysis of our participation, we have concluded it would be prudent to decertify as a participant in the NDBEDP.

FTRI was certified by the FCC to participate in the program and receive reimbursement for that participation from the TRS Fund in 2012. Initially, the program was to be a pilot program for two years, but that pilot program has been extended to its fourth year and there is a possibility the pilot program will be extended for a fifth year under the current rules and requirements. Under current FCC guidelines, FTRI is reimbursed the cost of the equipment purchased and distributed, assessment of clients, training of clients and administrative costs associated with the program to a cap of 15% of the cost of the reimbursable expenses. Some costs are not recoverable.

At the time we applied to the FCC for certification in 2011, the Board directed that participation in the FCC program not take away from our focus on TASA, which is our statutory charge, or result in use of surcharge revenues to support the federal program. While we have followed that guidance, it is now our view that may become more challenging. A review of the revenues and expenses associated with the NDBEDP for the past two quarters (Attached) reflect that expenses are beginning to exceed revenues, confirming our concerns which prompted the discussion you had with our counsel several months ago. We believe future activities may yield more of a burden due to the 15% administrative cap. The nature of reimbursable expenses is shifting to lower cost equipment, as well as maintenance and repair issues, all of which take considerable more administrative time than a new client, and yield a lower administrative reimbursement using the 15% cap.

The NDBEDP is not as large a program as TASA compared to clients served because of the specialized nature of the equipment and the FCC guidelines, and does not lend itself to using existing distribution arrangements. As a result, the administrative portion of the NDBEDP is

handled by the main office personnel, all of whom have duties with TASA. FTRI uses independent contractors for assessment and training services, but because the equipment distributed is specialized, the nature of serving the Deaf-Blind community varies due to a wide array of needs, i.e. severity of deafness or blindness, onset of disabilities, technological skill level, communication challenges, all of which contributes to additional time demands on staff.

While we recognize the benefits of the NDBEDP, we are mindful that our purpose is to be the administrator of TASA as outlined in Chapter 427, Florida Statutes, and when all things are considered, we believe that it is in the best interest of TASA for FTRI to decertify with the NDBEDP as other states have done, and we plan to advise the FCC of this action.

Sincerely,

James Forstall
Executive Director

Attachment

CC: FTRI Board of Directors

Florida National Deaf Blind Equipment Distribution Program
Administered by FTRI

2015-2016	QTR1	QTR 2	QTR3	QTR4	Total
Revenue	43014.86	23133.78			66148.64
					0.00
Expenses-Prgrm	32521.73	18322.58			50844.31
Expenses-Admin	5047.68	5200.28			10247.96
audit	5000.00				5000.00
Expenses-staff	4618.80	5990.63		0.00	10609.43
Net	-4173.35	-6379.71	0.00	0.00	-10553.06
					-10553.06

5.0 Findings and Recommendations

5.1 Findings and Recommendations

Commission audit staff believes that FTRI should further improve certain equipment distribution program and outreach processes, procedures, and other internal controls as noted below:

As a landline-based program, FTRI faces challenges posed by competing technologies that are in part beyond its control. To counter this imbalance, FTRI must control operating costs and maximize the results of carefully-targeted marketing efforts. It must identify, educate and serve the highest possible percentage of eligible Floridians. It also must maximize the performance of its Regional Distribution Centers in reaching and serving new clients.

Finding 1: **FTRI has improved its operational effectiveness and efficiency through the implementation and enhancement of the Applied Information Management System (AIMS) in 2012.**

Finding 2: **Competition from cellular and Internet Protocol technologies, combined with declines in Telecommunications Relay Service minute usage present major budget challenges.**

Recommendation: FTRI should limit outreach and equipment distribution events by Regional Distribution Centers to those FTRI believes to be the most effective for educating, generating new clients, and serving existing ones.

Recommendation: FTRI should carefully target its marketing and outreach efforts, using Regional Distribution Center input in the selection of media options to customize local marketing efforts.

Finding 3: **FTRI's cost of serving each client continues to grow over time despite past budget reduction efforts.**

Recommendation: FTRI should increase efforts to reduce expenditures in the areas of personnel, equipment, and outreach.

Finding 4: **FTRI does not currently set specific quantitative outreach event goals for itself and does not encourage quantitative goal-setting for Regional Distribution Centers.**

Recommendation: FTRI should establish statewide quantitative outreach goals, and work with RDCs to encourage them to set individual quantitative outreach goals.

Finding 5: **Presently no comprehensive methods exist for evaluating Regional Distribution Centers.**

Recommendation: FTRI should consider establishing a set of evaluative measures to assess performance, identify best practices, and seek to raise the level of Regional Distribution Center performance.

Finding 6: **FTRI believes that continuing the administration of the National Deaf-Blind Equipment Distribution Program by FTRI may not be cost-effective.**

Recommendation: FTRI should gather data and perform necessary analysis to support a re-assessment of the efficiency and effectiveness of its continued administration of the National Deaf-Blind Equipment Distribution Program.

Finding 7: **FTRI has used the same accounting firm to complete its audits for five years.**

Recommendation: FTRI should consider rotation of audit firms and partners as outlined in the Sarbanes-Oxley Act.

FTRI Budget Options

		2015/2016 APPROVED BUDGET	2016/2017 PROPOSED BUDGET	OPTION 1	OPTION 2	OPTION 3
REVENUE				@ $0.11[14]	@ $0.12	@ $0.12
1	Surcharge	8,249,890	7,762,706	7,297,393	7,762,706	7,762,706
2	Interest	33,941	34,188	34,188	34,188	34,188
3	NDBEDP	468,749				-
	TOTAL OPERATING REV.	8,752,580	7,796,894	7,331,581	7,796,894	7,796,894
4	Surplus Account	15,722,595	15,983,096			
	TOTAL REVENUE	24,475,175	23,779,990			
OPERATING EXPENSES						
CATEGORY I - RELAY SERVICES						
5	DPR Provider	3,971,499	3,192,039	3,192,039	3,192,039	3,192,039
	SUBTOTAL CATEGORY I	3,971,499	3,192,039	3,192,039	3,192,039	3,192,039
CATEGORY II - EQUIPMENT & REPAIRS						
6	TDD Equipment	-	-	-	-	-
7	Large Print TDD	-	568	568	-	568
8	VCO/HCO-TDD	720	1,150	1,150	1,533	1,150
9	VCO-Telephone	-	-	-	-	-
10	Dual Sensory Equipment	5,000	5,000	5,000	-	5,000
11	CapTel Phone Equipment	-	-	-	-	-
12	VCP Hearing Impaired	1,440,645	1,434,745	1,291,270	1,415,745	1,434,745
13	VCP Speech Impaired	1,386	693	693	689	693
14	TeliTalk Speech Aid	18,000	15,000	10,000	7,200	15,000
15	Jupiter Speaker phone	-	-	-	-	-
16	In Line Amplifier	-	-	-	-	-
17	ARS-Signaling Equipment	6,501	5,418	5,418	1,589	5,418
18	VRS-Signaling Equipment	16,080	15,246	10,000	6,968	15,246
19	Accessories & Supplies	2,980	1,886	900	481	1,886
20	Telecom Equipment Repair	199,074	141,772	141,772	89,829	141,772
	SUBTOTAL CAT II	1,690,386	1,621,478	1,466,771	1,524,034	1,621,478

[14] $0.11 was used for ten months and $0.12 was used for two months

CATEGORY III - EQUPMENT DISTRIBUTION & TRAINING

21	Freight - Telecomm Equipment	74,314	47,325	47,325	43,225	47,325
22	Regional Distribution Centers	978,423	901,078	810,970	981,481	901,078
23	Workshop Expense	-	-	-	-	-
24	Training Expense for RDCs	2,000	2,000	1,200	624	2,000
	SUBTOTAL CAT III	1,054,737	950,403	859,495	1,025,330	950,403

CATEGORY IV - OUTREACH

25	Outreach Expense	574,626	728,300	500,000	574,626	728,300
	SUBTOTAL CAT IV	574,626	728,300	500,000	574,626	728,300

CATEGORY V - GENERAL AND ADMINISTRATIVE

26	Advertising	2,641	2,633	1,320	1,340	2,633
27	Accounting/Audit	24,896	22,300	22,300	26,140	22,300
28	Legal	72,000	72,000	36,000	71,400	72,000
29	Consultation-Computer	23,970	15,980	8,100	7,187	15,980
30	Dues/Subscriptions	3,034	2,798	2,798	3,439	2,798
31	Office Furniture	250	250	250	-	250
32	Office Equipment Purchase	12,500	9,990	9,990	4,507	9,990
33	Office Equipment Lease	1,886	1,876	1,876	1,695	1,876
34	Insurance - Health/Life/Disability	158,262	165,735	131,649	114,077	165,735
35	Insurance-Other	8,897	9,844	9,844	10,748	9,844
36	Office Expense	16,524	17,496	17,496	14,197	17,496
37	Postage	9,917	8,124	8,124	4,489	8,124
38	Printing	1,537	1,295	1,295	719	1,295
39	Rent	91,280	93,419	93,419	93,921	93,419
40	Utilities	5,808	5,281	5,281	5,065	5,281
41	Retirement	58,575	59,694	45,462	59,101	59,694
42	Employee Compensation	408,471	430,264	417,611	393,852	430,264
43	Temporary Employment	8,000	10,400	1,000	9,640	10,400
44	Taxes - Payroll	32,507	32,916	31,957	29,669	32,916
45	Taxes - Unemployment Comp	1,863	1,663	1,663	2,012	1,663
46	Taxes - Licenses	65	65	65	-	65
47	Telephone	18,670	16,708	16,708	15,595	16,708
48	Travel & Business Expense	16,296	18,700	10,000	9,755	18,700
49	Equipment Maintenance	1,353	1,287	1,287	937	1,287
50	Employee Training	7,000	5,300	3,200	567	5,300
51	Meeting Expense	5,733	6,871	6,871	3,641	6,871
52	Miscellaneous	-	-	-	-	-
	SUBTOTAL CAT V	991,935	1,012,889	885,566	883,693	1,012,889

CATEGORY VI						
53	NDBEDP	468,749	-	-	-	-
	SUBTOTAL CAT VI	468,749	-	-	-	-
	TOTAL EXPENSES	8,751,932	7,505,109	6,903,871	7,199,422	7,505,109
	REVENUES LESS EXPENSES	648	291,785	427,710	597,172	291,785

Item 3

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Mapp, Leathers) SMC.
Office of Industry Development and Market Analysis (Whitfield, Breman, Hinton, Laux) mec

RE: Docket No. 160009-EI – Nuclear cost recovery clause.

AGENDA: 07/07/16 – Regular Agenda – Participation at the Commission's Discretion

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: September 1, 2016 (Statutory Rule Waiver Deadline)

SPECIAL INSTRUCTIONS: None

Case Background

Florida Power & Light Company (FPL) obtained an affirmative need determination in 2008 for the construction of two new nuclear electric generating units: Turkey Point Units 6 and 7 (TP Project).[1] Annually thereafter, FPL has requested recovery of project costs through the nuclear cost recovery proceeding (NCRC) pursuant to Rule 25-6.0423, Florida Administrative Code (F.A.C.), and Section 366.93, Florida Statutes (F.S.).

The Commission established Docket No. 160009-EI to address 2016 petitions for cost recovery through the NCRC. The Order Establishing Procedure (OEP) in this docket set dates for the filing of testimony and exhibits regarding project activities, costs, and long-term feasibility.[2]

[1] Order No. PSC-08-0237-FOF-EI, issued on April 11, 2008, in Docket No. 070650-EI, In re: Petition to determine need for Turkey Point Nuclear Units 6 and 7 electrical power plant, by Florida Power & Light Company.
[2] Order Nos. PSC-16-0105-PCO-EI, issued on March 11, 2016, in Docket 160009-EI, In re: Nuclear cost recovery clause; PSC-16-0140-PCO-EI, issued April 6, 2016, in Docket 160009-EI, In re: Nuclear cost recovery clause.

Consistent with the OEP, on March 1, 2016, FPL filed a request for prudence review and final true-up of actual 2015 costs for the TP Project. On April 27, 2016, FPL filed testimony seeking approval of estimated 2016 and 2017 activities and costs for the TP Project. Through these petitions, FPL requested recovery of $22,081,049, to be collected in 2017 through the Capacity Cost Recovery Clause, Docket No. 160001-EI.

FPL did not, however, file its long-term feasibility testimony and exhibits. Instead, FPL filed a Petition for Waiver of Rule 25-6.0423(6)(c)5., F.A.C., (Petition for Waiver). Rule 25-6.0423(6)(c)5., F.A.C., states:

> Along with the filings required by this paragraph, each year a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power plant. Such analysis shall include evidence that the utility intends to construct the nuclear or integrated gasification combined cycle power plant by showing that it has committed sufficient, meaningful, and available resources to enable the project to be completed and that its intent is realistic and practical.

Pursuant to Section 120.542(6), F.S., notice of the Petition for Waiver was published in the Florida Administrative Register on May 2, 2016. Comments were filed by the Office of Public Counsel (OPC), Florida Industrial Power Users Group (FIPUG), Southern Alliance for Clean Energy (SACE), and the City of Miami (Miami).

On June 17, 2016, FPL filed a Motion to Defer Consideration of Issues and Cost Recovery (Motion to Defer). This recommendation addresses FPL's Motion to Defer.

The Commission has jurisdiction over this matter pursuant to Sections 366.93, 403.519, and 120.542, F.S.

Discussion of Issues

Issue 1: Should the Commission approve FPL's Motion to Defer Consideration of Issues and Cost Recovery in this docket until the 2017 Nuclear Cost Recovery Clause proceeding?

Recommendation: Yes. The Commission should defer consideration of FPL's issues and cost recovery in this docket until the 2017 Nuclear Cost Recovery Clause proceeding. (Mapp, Leathers, Breman)

Staff Analysis: As noted in the Case Background, FPL filed a Petition for Waiver of Rule 25-6.0423(6)(c)5., F.A.C., which requires the submission of a detailed analysis of the long-term feasibility of completing the power plant. On May 16, 2016, OPC, FIPUG, SACE, and Miami filed comments opposing FPL's Petition for Waiver. No comments supporting FPL's Petition for Waiver were received.

On June 17, 2016, FPL filed its Motion to Defer. In its Motion to Defer, FPL states:

> It is clear from the parties' comments in opposition to the Petition for Waiver that there is a wide difference of opinion between FPL and parties who oppose FPL's waiver request as to the need for and practical usefulness of a quantitative feasibility analysis at this time. In light of such disagreement, FPL is willing to defer consideration of its cost recovery request.

Upon approval of the Motion to Defer, FPL will withdraw its Petition for Waiver and will plan to file a long-term feasibility analysis in the 2017 NCRC docket.

If approved, the deferral would be implemented consistent with the requirements of Section 366.93, F.S., and Rule 25-6.0423, F.A.C., which afford deferred accounting treatment and accrual of carrying charges equal to FPL's most recently approved allowance for funds used during construction rate until recovered in rates.

Pursuant to Rule 28-106.204, F.A.C., FPL contacted all intervenors to this docket to determine the intervenors' position on FPL's Motion. FPL asserted that OPC, Miami, and SACE do not object to its Motion to Defer. Duke Energy Florida, LLC, Florida Retail Federation, and White Springs Agricultural Chemicals Inc., d/d/a PCS Phosphate-White Springs take no position. FPL was unable to confirm FIPUG's position prior to filing the Motion to Defer.

Staff notes that neither Section 366.93, F.S., nor Rule 25-6.0423, F.A.C., require a utility to seek recovery of nuclear project costs in any given year. Staff also notes that in previous NCRC proceedings the Commission has deferred consideration of particular issues until the following year.[3] Based on the forgoing, staff believes FPL's Motion to Defer is reasonable and should be approved.

[3] Order Nos. PSC-11-0095-FOF-EI, issued on February 2, 2011, in Docket 100009-EI, In re: Nuclear cost recovery clause; PSC-11-0547-FOF-EI, issued on November 23, 2011, in Docket 110009-EI, In re: Nuclear cost recovery clause.

Issue 2: Should this docket be closed?

Recommendation: No. The Nuclear Cost Recovery Clause is an on-going docket and should remain open. (Mapp, Leathers)

Staff Analysis: The Nuclear Cost Recovery Clause is an on-going docket and should remain open.

Item 4

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Cowdery)
Division of Economics (Draper, Guffey)

RE: Docket No. 160049-EU – Petition for modification of territorial order based on changed legal circumstances emanating from Article VIII, Section 2(c) of the Florida Constitution, by the Town of Indian River Shores.

AGENDA: 07/07/16 – Regular Agenda: Issues 1 – 4 – Oral Argument Not Requested – Participation at Commission's Discretion; Issue 5 is Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Patronis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

The City of Vero Beach (Vero Beach) provides electric service to the portion of the Town of Indian River Shores (Indian River Shores) located south of Old Winter Beach Road, pursuant to four territorial orders of the Commission that approved territorial agreements between Vero Beach and Florida Power & Light Company (FPL). *See* Order No. 5520, issued August 29, 1972, in Docket No. 72045-EU, *In re: Application of Florida Power and Light Company for approval of a territorial agreement with the City of Vero Beach*; Order No. 6010, issued January 18, 1974, in Docket No. 73605-EU, *In re: Application of Florida Power & Light Company for approval of a modification of territorial agreement and contract for interchange service with the City of Vero Beach, Florida*; Order No. 10382, issued November 3, 1981 and Order No. 11580, issued February 2, 1983, in Docket No. 800596-EU, *In re: Application of FPL and the*

City of Vero Beach for approval of an agreement relative to service areas; and Order No. 18834, issued February 9, 1988, in Docket No. 871090-EU, *In re: Petition of Florida Power & Light Company and the City of Vero Beach for approval of amendment of a territorial agreement* (referred to collectively as the Territorial Orders).

Although Vero Beach began providing electric service to residents of Indian River Shores prior to 1968, in that year Vero Beach and Indian River Shores entered into a contract whereby Indian River Shores requested and Vero Beach agreed to provide water service and electric power to any residents within the corporate limits of Indian River Shores (1968 Contract). In 1986, Indian River Shores and Vero Beach entered into a 30-year franchise agreement that superseded the 1968 Contract as to electric service and granted Vero Beach the sole and exclusive right to construct, maintain, and operate an electric system in public places in that portion of Indian River Shores lying south of Winter Beach Road (Franchise Agreement).

By letter of July 18, 2014, Indian River Shores advised Vero Beach that it was taking several actions to achieve rate relief for its citizens who receive electric service from Vero Beach. The letter states that Vero Beach's provision of electric service within Indian River Shores is permitted pursuant to the Franchise Agreement, but because of Vero Beach's unreasonably high electric rates as compared to FPL's rates, Indian River Shores will not renew the Franchise Agreement when it expires on November 6, 2016, and Vero Beach will no longer have Indian River Shores' permission to occupy rights-of-way or to operate its electric utility within Indian River Shores. In addition, the letter advised Vero Beach that Indian River Shores had filed a lawsuit against Vero Beach that included a challenge to Vero Beach's electric rates and "a Constitutional challenge regarding the denial of rights" to Vero Beach electric customers living in Indian River Shores.

Following unsuccessful mediation between Indian River Shores and Vero Beach pursuant to the Florida Governmental Conflict Resolution Act, Chapter 164, Florida Statutes (F.S.), Indian River Shores filed an amended complaint asking the circuit court, in part, to declare that upon expiration of the Franchise Agreement giving Vero Beach permission to provide electric service in Indian River Shores, Vero Beach has no legal right to provide electric service in Indian River Shores. In its amended complaint, Indian River Shores argued that there is no general or special law giving Vero Beach authority to provide electric service in Indian River Shores as required by Article VIII, Section 2(c), Florida Constitution, and for that reason, Vero Beach may only provide electric service in Indian River Shores if it has Indian River Shores' consent. Vero Beach filed a motion to dismiss this claim, which the Commission supported in court as amicus curiae, on the grounds that the determination of whether Vero Beach has authority to provide service in Indian River Shores is within the Commission's exclusive and superior jurisdiction over territorial agreements. On November 11, 2015, the Court dismissed this claim, finding that the relief requested is squarely within the jurisdiction of the Commission.

On January 5, 2016, Indian River Shores filed a petition for declaratory statement with the Commission, asking for a declaration that the Commission lacks jurisdiction to interpret Article VIII, Section 2(c), Florida Constitution, for purposes of determining whether Indian River Shores has a constitutional right to be protected from Vero Beach providing electric service within Indian River Shores without Indian River Shores' consent. On March 4, 2016, the

Commission issued an order declaring that it has the jurisdiction under Section 366.04, F.S., to determine whether Vero Beach has the authority to continue to provide electric service within the corporate limits of Indian River Shores upon expiration of the Franchise Agreement. Order No. PSC-16-0093-FOF-EU. The Commission found that in a proper proceeding, it has the authority to interpret the phrase "as provided by general or special law" as used in Article VIII, Section 2(c), Florida Constitution.

On March 4, 2016, pursuant to Sections 120.57 and 366.04, F.S., Indian River Shores filed a Petition for Modification of Territorial Order Based on Changed Legal Circumstances Emanating from Article VIII, Section 2(c) of the Florida Constitution (Petition). Indian River Shores argues that the Commission is required to modify the Territorial Orders because there is no general or special law authorizing Vero Beach to provide service in Indian River Shores and, for this reason, Vero Beach may only provide such service if it has Indian River Shores' consent. Indian River Shores argues that Vero Beach has always had its temporary consent to provide electric service, and currently has that consent pursuant to the Franchise Agreement that will expire November 6, 2016. The Petition alleges that the withdrawal of Indian River Shores' consent caused by expiration of the Franchise Agreement is the changed legal circumstance requiring the Commission to modify the Territorial Orders. The result would be to place that portion of Indian River Shores currently in Vero Beach's service area into FPL's service area so that all of Indian River Shores would be served by FPL.

The Petition alleges that Vero Beach's electric rates have been some of the highest in Florida over the last 10 years, despite Vero Beach having cost advantages as a municipal electric utility. The Petition further alleges that Indian River Shores and its residents have paid approximately $16 million more for electricity than they would have paid if electric service had been provided by FPL. The Petition states that unlike FPL, Vero Beach's rates are not regulated by the Commission, but are set by the City Council whose members are elected by Vero Beach residents. The Petition further alleges that because Indian River Shores and its residents who receive electric service from Vero Beach are located outside of Vero Beach, they cannot vote for the City Council members and thus have no voice in electing the officials who manage Vero Beach's electric utility and set electric rates.

Indian River Shores alleges that Vero Beach abuses its monopoly power by diverting electric utility revenues from Indian River Shores and its residents to Vero Beach's general fund as a surrogate vehicle for taxation to keep its ad valorem property taxes artificially low and to cover costs unassociated with operation of the electric utility. The Petition alleges that this includes subsidizing Vero Beach's unfunded pension obligations to current and former employees unassociated with Vero Beach's provision of electric service. The Petition alleges that modifying the current territorial boundary line to place the entire Town of Indian River Shores within the electric service area of FPL would be in the public interest because it would eliminate these problems.

Indian River Shores also alleges that changing service providers to FPL would give all Indian River Shores residents access to FPL's energy conservation programs and deployment of solar generation and smart meters that are not available by or through Vero Beach. The Petition alleges that transferring Indian River Shores' residents to FPL would provide customers with the

benefits of FPL's storm hardening initiatives, highly regarded management expertise, and high customer satisfaction ratings. Indian River Shores alleges that FPL is ready, willing, and able to serve all of the customers in Indian River Shores upon purchase of Vero Beach's electrical facilities in Indian River Shores for $13 million in cash, and that Indian River Shores' residents are overwhelmingly in favor of having FPL as the single electric provider within Indian River Shores. The Petition includes an alternative request for the Commission to treat the Petition as a complaint against Vero Beach for the same relief requested in the Petition. Indian River Shores also asks the Commission to conduct a service hearing in Indian River Shores so that the Commission can hear directly from residents.

On March 22, 2016, FPL filed a Petition to Intervene. FPL agrees with Indian River Shores' statement that FPL is ready, willing, and able to serve the additional portion of Indian River Shores if the Commission were to grant the Petition's request and assuming reasonable terms were reached for the acquisition of Vero Beach's electric facilities in that area.

On March 24, 2016, Vero Beach filed a Motion to Dismiss Indian River Shores' Petition for Modification of Territorial Order and Alternative Complaint (Motion to Dismiss) and a Motion to Intervene or, in the alternative, if the Petition is treated as a complaint, to be named a party. Vero Beach argues that the Petition should be dismissed on the grounds that: (1) Indian River Shores lacks standing because it has not alleged any facts that constitute cognizable injury in fact or any injury within the zone of interests to be protected by the Commission's statutes applicable to territorial matters and its related Grid Bill jurisdiction; (2) the alleged changed circumstances have nothing to do with the Commission's territorial statutes or rules, or with either the territorial agreements or the Territorial Orders that Indian River Shores wants the Commission to modify; (3) the Petition fails to meet the pleading requirements of Rule 28-106.201, F.A.C.; and (4) the Petition is barred by Florida's doctrine of administrative finality. Vero Beach argues that Indian River Shores' alternative request that the Petition be treated as a complaint should be denied for failure to comply with the Rule 25-22.036, F.A.C., pleading requirements for complaints. Vero Beach states that if the Commission does not grant the Motion to Dismiss, Vero Beach will demand strict proof of each and every factual assertion in the Petition and will insist on all of its rights pursuant to Chapter 120, F.S., to protect the interests of Vero Beach and all of its electric customers.

On April 7, 2016, Indian River Shores filed its Response in Opposition and Motion to Strike Portions of the City of Vero Beach's Motion to Dismiss. On April 14, 2016, Vero Beach filed its Response in Opposition to Indian River Shores' Motion to Strike. Oral argument was not requested on the Motion to Strike or Motion to Dismiss. Indian River Shores states that it did not request oral argument on the Motion to Dismiss because it was not certain whether oral argument would be beneficial to the Commission, but asks that it be allowed to request participation at the Agenda Conference following its review of the Staff Recommendation.

This recommendation addresses the Motions to Intervene, Vero Beach's Motion to Dismiss, Indian River Shores' Motion to Strike, and Indian River Shores' Petition. The Commission has jurisdiction pursuant to Sections 120.569, 120.57, and 366.04, F.S.

Discussion of Issues

Issue 1: Should the Commission grant the City of Vero Beach's Motion to Intervene and Florida Power & Light Company's Petition to Intervene?

Recommendation: No. The Commission should deny Vero Beach's Motion to Intervene and FPL's Petition to Intervene because intervention is premature and unnecessary at this time. (Cowdery)

Staff Analysis: On March 4, 2016, Indian River Shores filed its Petition asking the Commission to modify the Territorial Orders between FPL and Vero Beach. On March 24, 2016, Vero Beach filed a Motion to Intervene, or in the alternative, a request to be named a party, pursuant to Chapters 120 and 366, F.S., and Rules 25-6.0441, 25-22.036, 25-22.039, 28-106.201, and 28-106.205, F.A.C. Vero Beach states that as the incumbent utility providing service pursuant to territorial agreements between FPL and Vero Beach approved by the Commission pursuant to the Commission's Territorial Orders at issue in the Petition, Vero Beach's substantial interests will be directly affected by the issues raised in the docket. Vero Beach requests intervenor status so that it may file responsive pleadings and otherwise fully participate in Docket No. 160049-EU.

On March 22, 2016, FPL filed a Petition to Intervene pursuant to Chapters 120 and 366, F.S., and Rules 25-22.039 and 28-106.201, F.A.C. FPL alleges that it is clear on the face of the Petition that FPL's substantial interests will be determined by the Commission's decision in this proceeding because Indian River Shores has requested modification to the order approving FPL's territorial agreement with Vero Beach based on changed legal circumstances. FPL states that Indian River Shores has specifically requested the Commission to augment FPL's service area approved in the Territorial Order by placing all of Indian River Shores within the electric service area of FPL.

Issues 2-4 address motions filed in this docket. Although oral argument has not been requested on the motions, it is within the Commission's discretion to allow participation at the Agenda Conference. Staff is recommending in Issue 5 that the Petition requesting modification of the Territorial Orders be issued as a proposed agency action (PAA). Interested persons may participate at the Agenda Conference on Issue 5 pursuant to Rule 25-22.0021(2), F.A.C. The Commission invites broad participation in PAA proceedings in order to better inform itself of the scope and implications of its decisions. *See In re: Application for increase in water and wastewater rates in Pasco County by Labrador Utilities, Inc.*, Order No. PSC-12-0139-PCO-WS, issued March 26, 2012, Docket No. 110264-WS (Order Denying motion to Intervene in PAA proceeding), and Order No. PSC-14-0311-PCO-EM, issued June 13, 2014, in Docket No. 140059-EM, *In re: Notice of new municipal electric service provider and petition for waiver of Rule 25-9.044(2), by Babcock Ranch Community Independent Special District*. Vero Beach may participate fully in this proceeding, including filing its motion to dismiss and having it considered by the Commission, without intervening in this PAA proceeding.

Further, substantially affected persons will have the opportunity to request a hearing pursuant to Sections 120.569 and 120.57, F.S., once the Commission's PAA Order is issued. For

the reasons explained above, formal intervention by Vero Beach and FPL pursuant to Chapter 120, F.S., is premature and unnecessary at this time. Staff therefore recommends that the Commission deny Vero Beach's Motion to Intervene and FPL's Petition to Intervene.

Issue 2: Should the Commission grant Vero Beach's Motion to Dismiss the Petition for failure to meet the pleading requirements of Rule 28-106.201, F.A.C.?

Recommendation: No. The Commission should deny the Motion to Dismiss the Petition for failing to meet pleading requirements because the Petition is in substantial compliance with Rule 28-106.201, F.A.C. (Cowdery)

Staff Analysis:

Legal Standard

Indian River Shores' filed its Petition pursuant to Sections 120.57 and 366.04, F.S. Sections 120.569 and 120.57, F.S., apply in all proceedings in which the substantial interests of a party are determined by an agency. Unless otherwise provided by law, a petition or request for hearing must include all items required by Rule 28-106.201, F.A.C., if the hearing involves disputed issues of material fact. A petition or request for hearing must include all items required by Rule 28-106.301, F.A.C., if the hearing does not involve disputed issues of material fact. A petition filed under Chapter 120, F.S., that is in substantial compliance with the applicable uniform rule requirements need not be dismissed.

Arguments of Vero Beach and Indian River Shores

Vero Beach argues that the Petition should be dismissed because although the Petition purports to be filed pursuant to Section 120.57, F.S., it fails to meet the minimum pleading requirements of Rule 28-106.201(2), F.A.C. Specifically, Vero Beach alleges that the Petition fails to identify disputed issues of material fact, a statement of ultimate facts alleged, and an explanation of why Indian River Shores is entitled to the relief requested under specific statutes, rules, or orders of the Commission.

Indian River Shores asserts that it has sufficiently pled a claim for relief. Indian River Shores argues that Rule 28-106.201, F.A.C., does not apply since the Petition is not challenging proposed agency action. Indian River Shores states that the Petition seeks relief from the Commission pursuant to Section 366.04, F.S., and that the Florida Supreme Court expressly recognized in *Peoples Gas System, Inc. v. Mason*, 187 So. 2d 335, 339 (Fla. 1966), that the Commission may withdraw or modify its approval of a service area agreement, or other order, in proper proceedings initiated by it or even an interested member of the public.

Indian River Shores further argues that Rule 28-106.201, F.A.C., applies to requests for hearings on disputed issues of material fact, but that the Petition's material facts are meant to be undisputed. Indian River Shores argues that even if Rule 28-106.201, F.A.C., is applicable, Indian River Shores has substantially complied with pleading requirements because a plain reading of the Petition indicates that there are no disputed issues of material fact. Indian River Shores further argues that the Petition gives a detailed explanation of the changed legal circumstances that require modification of the Territorial Orders and gives a detailed explanation of the provisions of the Florida Constitution, statutes, and case law that require modification of the Territorial Orders.

Analysis

Staff believes that the Petition is in substantial compliance with the pleading requirements of the uniform rules and contains sufficient allegations to allow the Commission to rule on the Petition's request to modify the Territorial Orders. For these reasons, staff recommends that the Commission deny Vero Beach's Motion to Dismiss the Petition for failing to meet pleading requirements.

Issue 3: Should the Commission grant Indian River Shores' Motion to Strike?

Recommendation: No. The Commission should deny Indian River Shores' Motion to Strike. (Cowdery)

Staff Analysis:

Legal Standard

Rule 1.140(f), Florida Rules of Civil Procedure, states that a party may move to strike or the court may strike redundant, immaterial, impertinent, or scandalous matter from any pleading at any time. A motion to strike is appropriately directed to pleadings, not to motions to dismiss. Order No. PSC-04-0930-PCO, issued September 22, 2004, in Docket No. 040353-TP, *In re: Petition to review and cancel, or in the alternative immediately suspend or postpone, BellSouth Telecommunications, Inc.'s PreferredPack Plan tariffs, by Supra Telecommunications and Information Systems, Inc.* A motion to strike should only be granted if the pleadings are completely irrelevant and have no bearing on the decision. *Bay Colony Office Bldg. Joint Venture v. Wachovia Mortgage Co.*, 342 So. 2d 1005 (Fla. 5th DCA 1977).

Rule 1.140(f), Florida Rules of Civil Procedure, does not control in administrative proceedings. The Commission has used the rule as guidance when ruling on motions to strike, generally concerning evidentiary questions on testimony filed during the course of an administrative hearing proceeding. *E.g.* Order No. PSC-99-1809-PCO-WS, issued September 20, 1999, in Docket 971220-WS, *In re: Application for transfer of Certificates Nos. 592-W and 509-S from Cypress Lakes Associates, Ltd. to Cypress Lakes Utilities, Inc. in Polk County*.

Arguments of Vero Beach and Indian River Shores

Indian River Shores states that pursuant to Rule 1.140(f), Florida Rules of Civil Procedure, the Commission should ignore or strike the material in the Motion to Dismiss which is outside the four corners of the Petition as immaterial and impertinent. Indian River Shores asks the Commission to strike Vero Beach's factual allegations and arguments that the Petition's "real issue" is to challenge Vero Beach's utility rates. Indian River Shores does not specify what language of the Motion to Dismiss the Commission should strike. In addition, Indian River Shores argues that the Commission should strike Exhibit B to the Motion to Dismiss, a newspaper article, which Indian River Shores states that Vero Beach offers as purported evidence that the real purpose of the Petition is to challenge rates rather than enforce fundamental provisions of the Florida Constitution.

Vero Beach argues that Indian River Shores' Motion to Strike should be denied because the Commission is not bound by the Florida Rules of Civil Procedure unrelated to discovery. Vero Beach further argues that Rule 1.140(f), Florida Rules of Civil Procedure, provides for striking certain material from pleadings, and the rule does not apply because a motion to dismiss is not a pleading. Vero Beach also argues that a motion to strike language as immaterial should only be granted if the material is wholly irrelevant and can have no bearing on the equities and no influence on the decision. Vero Beach alleges that the material that Indian River Shores seeks to strike from the Motion to Dismiss, including Exhibit B, is clearly relevant to the equities, issues, and decision in this case and is therefore not subject to being stricken. Vero Beach further argues

that the Motion to Strike should be denied because it fails to identify with sufficient specificity the portions of the Motion to Dismiss that Indian River Shores seeks to strike.

Analysis

Staff believes that Indian River Shores' Motion to Strike is premature because this docket is in the proposed agency action stage and has not progressed to an evidentiary administrative hearing. Even if Indian River Shores' Motion to Strike were not premature, staff recommends that it be denied because a motion to strike is appropriately directed to pleadings, not to motions to dismiss.

Staff believes that the motion to strike should be denied on the additional ground that Vero Beach's arguments are not wholly immaterial to the Petition. It appears that Indian River Shores is asking the Commission to strike Vero Beach's entire legal argument that Indian River Shores lacks standing to ask for modification of the Territorial Orders on the basis that FPL has lower rates than Vero Beach. Vero Beach's arguments appear responsive to Indian River Shores' allegations that the Territorial Orders should be modified because of changed circumstances arising from Vero Beach's abuse of monopoly powers by "charging excessive rates." Finally, the Motion to Strike fails to identify specific portions of the Motion to Dismiss that it believes are immaterial or impertinent. For the reasons set forth above, staff recommends that the Commission deny Indian River Shores' Motion to Strike.

Issue 4: Should the City of Vero Beach's Motion to Dismiss Indian River Shores' Petition for lack of standing be granted?

Recommendation: The Commission should grant in part and deny in part Vero Beach's Motion to Dismiss for lack of standing. The Commission should grant the Motion to Dismiss on the grounds that Indian River Shores does not have standing to request modification of the Territorial Orders based on allegations of injury from abuses of monopoly powers and excessive rates. The Commission should also grant the Motion to Dismiss on the grounds that Indian River Shores does not have standing to represent Vero Beach's electric customers who reside in Indian River Shores. Dismissal on these grounds should be with prejudice because it conclusively appears from the face of the Petition that these defects in standing cannot be cured. The Commission should deny the Motion to Dismiss on the grounds that Indian River Shores has standing as a municipality to request modification of the Territorial Orders based on changed legal circumstances emanating from Article VIII, Section 2(c), Florida Constitution. (Cowdery)

Staff Analysis:

Legal Standard

For purposes of ruling on the Motion to Dismiss for lack of standing, the Commission must confine its review to the four corners of the Petition, draw all inferences in favor of the petitioner, and accept all well-pled allegations in the petition as true. *Chandler v. City of Greenacres*, 140 So. 3d 1080, 1083 (Fla. 4th DCA 2014). S*ee also Mid-Chattahoochee River Users v. Florida Department of Environmental Protection*, 948 So. 2d 794, 796 (Fla. 1st DCA 2006), *rev. denied*, 966 So. 2d 967 (Fla. 2007)(affirming agency's final order granting motion to dismiss petition for lack of standing under *Agrico*). Dismissal of a petition may be with prejudice if it appears from the face of the petition that the defect cannot be cured. Section 120.569(2)(c), F.S.

The Florida Supreme Court has stated that the Commission may modify its approval of a territorial agreement "in proper proceedings initiated by it, a party to the agreement, or even an interested member of the public." *Peoples Gas System*, 187 So. 2d at 339; *City of Homestead v. Beard*, 600 So. 2d 450, 453 n. 5 (Fla. 1992); *Public Service Commission v. Fuller*, 551 So. 2d 1210, 1212 (Fla. 1989). In order for Indian River Shores to have standing to receive a Section 120.57, F.S., hearing on its Petition, it must demonstrate: (1) that it will suffer injury in fact which is of sufficient immediacy to entitle it to a Section 120.569 and 120.57, F.S., hearing (degree of injury); and (2) that its substantial injury is of a type or nature that the proceeding is designed to protect (nature of injury). *Agrico Chemical Co., v. Department of Environmental Regulation*, 406 So. 2d 478, 472 (Fla. 2d DCA 1981), *rev. denied*, 415 So. 2d 1359 and 415 So. 2d 1361 (Fla. 1982). *See also Nuvox Communications, Inc. v. Edgar*, 958 So. 2d 920 (Fla. 2007)(affirming Commission order dismissing petitions with prejudice for lack of standing under *Agrico*); *Ameristeel Corp. v. Clark*, 691 So. 2d 473, 477 (Fla. 1997)(affirming Commission order dismissing petition protesting territorial order for lack of *Agrico* standing, finding that Ameristeel's claim concerning paying higher rates to FPL was not injury in fact entitling it to a Section 120.57, F.S., hearing). Although Indian River Shores must demonstrate that it will suffer injury in fact of sufficient immediacy to entitle it to a hearing, it does not have to establish that it

will prevail on the merits of its argument. *Palm Beach County Environmental Coalition v. Florida Department of Environmental Regulation*, 14 So. 3d 1076, 1078 (Fla. 4th DCA 2015).

The purpose of requiring a party to have standing to participate in an administrative proceeding is to ensure that a party has sufficient interest in the outcome to warrant a hearing and to assure that the party will adequately represent its asserted interests. In this regard, "the obvious intent of *Agrico* was to preclude parties from intervening in a proceeding where those parties' substantial interests are totally unrelated to the issues which are to be resolved in the administrative proceedings." *Prescription Partners, LLC v. State*, 109 So. 3d 1218, 1223 (Fla. 1st DCA 2013).

Staff recommends that the Motion to Dismiss be granted in part and denied in part. Staff's recommendation is discussed in more detail below.

Arguments of Vero Beach and Indian River Shores

Vero Beach's Motion to Dismiss

Vero Beach argues that the Petition should be dismissed for lack of standing because only persons whose substantial interests may or will be affected by action of the Commission may file a petition for an administrative hearing. Vero Beach alleges that in order to establish standing to initiate an administrative proceeding, a petitioner must demonstrate: (1) that the petitioner will suffer an injury in fact that is of sufficient immediacy to entitle it to a Section 120.57, F.S., hearing (degree of injury); and (2) that the petitioner's substantial injury is of a type or nature against which the proceeding is designed to protect (nature of injury). *Agrico*, 406 So. 2d at 472.

Vero Beach argues that the actual injury alleged in the Petition is that Vero Beach charges higher electric rates to customers in Indian River Shores than does FPL. Vero Beach alleges that Indian River Shores' interest in lower electric rates does not constitute an injury in fact of sufficient immediacy to establish grounds for *Agrico* standing because the change in the relationships between the rates of Vero Beach and the rates of FPL is not cognizable under the Commission's territorial statutes or its general Grid Bill authority.

Vero Beach argues that the Petition fails to allege any injury relative to the statutory or rule provision criteria for approving territorial agreements upon which the Territorial Orders were based, such as the reasonableness of the purchase price of any facilities being transferred; potential impacts on reliability; and the elimination of the potential uneconomic duplication of facilities. Likewise, Vero Beach argues that the Petition does not allege injury in fact relative to the statutory and rule provisions concerning territorial disputes. Vero Beach notes that even if Indian River Shores has alleged injury relative to the "customer preference" criterion of Rule 25-6.0441(2)(d), F.A.C., in that Indian River Shores has changed its mind because FPL's rates are now less than Vero Beach's rates, the Commission and the Florida Supreme Court have recognized on many occasions that customer preference – particularly for lower rates, but for other factors as well - is not cognizable as a matter of law. Additionally, Vero Beach argues that the Petition is deficient because it does not allege any injury relative to the Section 366.04(5), F.S., requirement that the Commission assure avoidance of further uneconomic duplication of generation, transmission, and distribution facilities.

Vero Beach argues that Indian River Shores failed to allege any injury to any of the interests protected by the Commission's territorial and related Grid Bill statutes, Sections 366.04(2)(d)-(e) or 366.04(5), F.S., or Rule 25-6.0441, F.A.C., relating to Vero Beach's ability to serve, to the adequacy and reliability of Vero Beach's service, or to the avoidance of uneconomic duplication of facilities. Vero Beach argues that because the alleged injuries are outside the zone of interests to be protected by the Commission's territorial and related Grid Bill statutes that Indian River Shores does not meet the second requirement of *Agrico*.

In addition, Vero Beach argues that Indian River Shores lacks power, a legal basis, and standing to assert the interests of its citizens in a representative capacity, citing to Order No. 96-0768-PCO-WU, issued June 14, 1996, in Docket No. 960192-WU, *In Re: Application for a Limited Proceeding to Include Groundwater Development and Protection Costs in Rates in Martin County by Hobe Sound Water Company* (*Hobe Sound Order*). Vero Beach states that the *Hobe Sound Order* states that:

> [I]ntervention is not granted to the Town [of Jupiter Island] in a representational capacity on behalf of its residents and taxpayers. There is no authority cited in the motion to support such standing to intervene, and there is nothing in Chapter 120, Florida Statutes, to authorize a Town to intervene in administrative proceedings on behalf of its taxpayers.

Vero Beach argues that Indian River Shores' allegation of injury to its purported constitutional right to be protected from Vero Beach providing service in Indian River Shores without Indian River Shores' consent fails to demonstrate injury in fact. Vero Beach argues that this is because the allegation of injury is speculative, affords no grounds for modification of the Territorial Orders, and is only being alleged as an injury because Vero Beach's electric rates are higher than those of FPL.

Indian River Shores' Response to Motion to Dismiss

Indian River Shores argues that the Motion to Dismiss should be denied because Vero Beach has not and cannot meet the legal standard for dismissal, noting that the Commission has recognized that dismissal is a drastic remedy and is only appropriate when the legal standard has been clearly met. Indian River Shores states that the Petition is not a simple demand by a customer to be served by a particular utility of its choosing, and, instead, is complaining about Vero Beach's unconstitutional exercise of extra-territorial powers in Indian River Shores' corporate limits and the particular unregulated monopolistic abuses arising out of that unconstitutional act.

Indian River Shores argues that the *Agrico* standing test does not apply because Indian River Shores has standing to seek modification of the Territorial Orders as an interested member of the public under *Peoples Gas*, 187 So. 2d at 339; *Fuller*, 551 So. 2d 1210 at 1212; and *City of Homestead*, 600 So. 2d at 453 n. 5. The Petition alleges that if *Agrico* applies, Indian River Shores meets the first requirement because it will suffer substantial and immediate injury by Vero Beach using its unregulated monopoly electric service area within Indian River Shores to extract monopolistic profits from Indian River Shores' residents, resulting in excessive rates for lower quality service, with profits supporting non-utility operations of Vero Beach and reducing the tax burden on Vero Beach residents. Indian River Shores argues that it has standing because

it has a constitutional right to be protected from Vero Beach providing electric service within Indian River Shores without consent.

Indian River Shores argues that it has met the second prong of the *Agrico* test because the Petition alleges injury of a type or nature which this proceeding to modify a territorial order is designed to protect. Indian River Shores argues that the Florida Supreme Court has emphasized that in order for a territorial agreement to be in the public interest, parties to such an agreement must be subject to a statutory regulatory regime sufficient to protect consumers from monopoly abuses because a utility's power to fix the price and thereby injure the public and the danger of deterioration in service quality are the inevitable evils of unregulated monopolies. Indian River Shores argues that the Commission has a duty to modify the Territorial Order to protect Indian River Shores and its residents from "monopoly abuses" to extract "monopolistic profits" in the form of high rates. Indian River Shores objects to Vero Beach's use of utility revenues as general revenue to fund city operations unrelated to electric utility operations. Indian River Shores argues that the active supervision that the Commission must exercise to protect against monopoly abuses is particularly needed in this very unique situation where Vero Beach is serving extraterritorially and exerting unregulated monopoly powers within the corporate limits of another equally independent municipality.

Indian River Shores states that Vero Beach's arguments that Indian River Shores has waived consent and that administrative finality bars the Petition are affirmative defenses that cannot be used in ruling on the Motion to Dismiss and, in addition, are without merit. Indian River Shores states that even if Indian River Shores lacks standing to bring this Petition, the Commission should address on its own motion the changed legal circumstances that will render Vero Beach's provision of electric service to Indian River Shores unconstitutional upon expiration of the Franchise Agreement.

Indian River Shores argues that it has standing as a municipality to represent the interests of its residents because it has an obligation to protect them from Vero Beach's unconstitutional exercise of unregulated extraterritorial monopoly powers within Indian River Shores. Indian River Shores distinguishes the *Hobe Sound Order* as being a rate case with nothing to do with assertion of constitution protections against improper encroachments by one municipality within the boundaries of another. Indian River Shores notes that in the *Hobe Sound Order*, although the Commission determined that the municipality did not have standing to represent its citizens, the municipality did have standing to intervene as a customer of the utility. Indian River Shores states that even if it cannot legally represent the interests of its residents, it has standing as a customer of Vero Beach.

Analysis

The Commission should grant the Motion to Dismiss, in part.

The Petition's allegations that Indian River Shores is harmed by excessive rates caused by abuses of monopoly power, even if taken as true, do not establish Indian River Shores' standing to request modification of the Territorial Orders in order to change service providers. It is established law that "[a]n individual has no organic, economic or political right to service by a particular utility merely because he deems it advantageous to himself," *Story v. Mayo*, 217 So.

2d 304, 307 (Fla. 1968), *cert. denied,* 395 U.S. 909 (1969). In the Commission's exercise of jurisdiction over territorial agreements, larger policies are at stake than one customer's self-interest. *Lee County Electric Co-op v. Marks*, 501 So. 2d 585, 587 (Fla. 1987)(stating that those larger policies must be enforced and safeguarded by the Commission). An allegation of a significant price differential between two electric utility providers does not give an existing customer of one utility a substantial interest in the outcome of the territorial agreement proceeding between those providers. *Ameristeel*, 691 So. 2d at 478 (affirming the Commission's dismissal of Ameristeel's petition protesting territorial order for lack of standing under the *Agrico* test). *See also* Order 9259, issued Feb 26, 1980, in Docket No. 79063-EU, *In re: Complaint of J. and L. Accursio, et al., v. Florida Power and Light Company and City of Homestead* (where the Commission dismissed a petition to "enjoin enforcement" of a 12 year old territorial order, primarily because of rate issues, because the petition did not sufficiently allege changes in circumstances), *cert. denied, Accursio v. May*o, 389 So. 2d 1002 (Fla. 1980).

Further, the Commission does not have jurisdiction over municipal rates. In the 1974 Grid Bill,[1] as part of the Legislature's regulatory regime over electric utilities, the Commission was given limited regulatory jurisdiction over municipal electric utilities. *See* 366.04(2), F.S. The Legislature gave the Commission authority over municipalities to prescribe uniform systems and classifications of accounts; to prescribe a rate structure for all electric utilities; to require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes; to approve territorial agreements; to resolve territorial disputes; and to prescribe and require the filing of periodic reports and other data. The Legislature did not give the Commission jurisdiction over the actual rates charged by a municipal electric utility. *Lewis v. Public Service Commission*, 463 So. 2d 227 (Fla. 1985)(stating that the Commission's jurisdiction over rate structure does not include jurisdiction over the actual rates charged by a municipal electric utility). Because the Commission lacks this jurisdiction, it does not have authority to determine what Vero Beach's electric rates should be or whether they are "too high" compared to FPL's current rates.

The Florida Supreme Court has stated that as part of Florida's legislatively constructed regulatory regime, if customers of municipal electric utilities have complaints of "excessive rates or inadequate service their appeal under Florida law is to the courts or the municipal council." *Story,* 217 So. 2d at 308. In apparent recognition that the circuit court is the appropriate forum in which it must seek rate relief, Indian River Shores filed a lawsuit against Vero Beach in circuit court, seeking relief from what it alleges are unreasonable, oppressive, and inequitable electric rates. *See* Exhibit B to Order No. PSC-16-0093-FOF-EU, issued March 4, 2016, in Docket No. 160013-EU, *In re: Petition for declaratory statement regarding the Florida Public Service Commission's jurisdiction to adjudicate the Town of Indian River Shores' constitutional rights*.

The Petition also generally alleges that the Commission has a duty to protect Indian River Shores and its residents from "other anticompetitive behavior" and "other monopoly abuses." Indian

[1] Staff notes that the Grid Bill codified the Commission's authority to approve and review territorial agreements involving investor-owned utilities and expressly granted the Commission jurisdiction over rural electric cooperatives and municipal electric utilities for approving territorial agreements and resolving territorial disputes. See Richard C. Bellak and Martha Carter Brown, Drawing the Lines: Statewide Territorial Boundaries for Public Utilities in Florida, 19 Fla. St. L. Rev. 407, 413 (1991).

River Shores' Response to the Motion to Dismiss specifically asks the Commission to "redraw the monopoly service area boundaries in a manner that will comply with the antitrust laws" by replacing Vero Beach with FPL as service provider. These statements are misleading. The very Commission proceedings that approve territorial agreements or resolve disputes by Commission order are the actions that cause territorial agreements to "comply with the antitrust laws." This is because the Florida Legislature has through Section 366.04(2), F.S., created a "clearly articulated and affirmatively expressed state policy for establishing electric utility territorial boundaries" resulting in state action immunity for utilities from antitrust liability. *See Union Carbide Corp. v. Florida Power & Light Co*., 1993 U.S. Dist. LEXIS 21203 (M.D. Fla. 1993). As the Commission stated in affirming its authority to enforce its territorial orders:

> We must demonstrate continued, meaningful, active supervision of the State's policy to displace competition between electric utilities throughout the state by approving — and enforcing — territorial agreements and resolving disputes. (emphasis added)

Order No. PSC-13-0207-PAA-EM, issued May 21, 2013, in Docket No. 120054-EM, *In re: Complaint of Robert D. Reynolds and Julianne C. Reynolds against Utility Board of the City of Key West, Florida d/b/a Keys Energy Services regarding extending commercial electrical transmission lines to each property owner of No Name Key, Florida*, 2013 Fla. PUC LEXIS 128, *53.

Further, other than making general statements concerning anticompetitive behavior, the Petition does not allege any specific anticompetitive behavior or violations of antitrust laws by Vero Beach. Even if specific antitrust violations were alleged, the Commission does not have jurisdiction to adjudicate antitrust violations, and the Petition does not argue otherwise.

The Petition's complaint that the Territorial Orders result in Indian River Shores residents being disenfranchised from voting for members of the Vero Beach City Council is not a circumstance that has changed since the Territorial Orders were issued, and therefore does not form a basis for modifying the Territorial Orders. For the same reason, there is no merit to the Petition's argument that the Territorial Orders should be modified because FPL is regulated as to rates by the Commission and Vero Beach is not. *See Storey*, 217 So. 2d at 307-308 (where, in affirming the Commission's territorial order, the Court did not accept the customers' argument that the order should be reversed because the impact of the approved territorial agreement was to force them to take service from an unregulated city utility with inferior rates and service, instead of receiving service from a regulated utility.)

In order to act in a representative capacity on behalf of its residents, the Legislature has to grant that power to Indian River Shores. *See Ormond Beach v. Mayo*, 330 So. 2d 524 (Fla. 1st DCA 1976), *cert. denied*, 341 So. 2d 1083 (Fla. 1976). Staff is unaware of any grant of statutory authority to Indian River Shores that would allow it to represent City electric customers located in Indian River Shores on any of the issues raised in its Petition. The Commission has previously denied a municipality intervention to act in a representational capacity on behalf of its residents and taxpayers on the basis that there is nothing in Chapter 120, F.S., to authorize a town to intervene in administrative proceedings on behalf of its taxpayers. *Hobe Sound Order*. However,

staff notes that interested persons may participate in the Agenda Conference on proposed agency action items.

For the reasons set forth above, staff recommends that the Commission grant Vero Beach's Motion to Dismiss, in part, on the grounds that Indian River Shores does not have standing to request modification of the Territorial Orders based on its allegations of injury from abuses of monopoly powers and excessive rates. Further, Indian River Shores lacks standing to request modification of the Territorial Orders in a representative capacity on behalf of Vero Beach's electric customers who reside in Indian River Shores. Staff recommends that the Commission grant the Motion to Dismiss on these grounds with prejudice because it conclusively appears from the face of the Petition that the defects as to standing cannot be cured.

The Commission should deny the Motion to Dismiss, in part.

Staff is of the opinion that the question of whether Indian River Shores' consent must be given in order for Vero Beach to continue to provide electric service within the municipal boundaries of Indian River Shores is a legal question separate and apart from Indian River Shores' allegations that rates are too high. Staff believes that Indian River Shores' legal argument that its consent is required by Section VIII, Article (2)(c), Florida Constitution, in order for Vero Beach to provide service within Indian River Shores forms a basis for standing. Standing may be based upon an interest created by the Constitution or a statute. *Florida Medical Association v. Department of Professional Regulation*, 426 So. 2d 1112, 1116, 1118 (Fla. 1st DCA 1983)(noting that zone of interest test of *Agrico* is met if standing is based on constitutional grounds).

It is staff's opinion that Indian River Shores' has established *Agrico* standing by alleging injury to its substantial interests as a municipality by arguing that it has a constitutional right to require the Commission to modify the Territorial Order when the Franchise Agreement and Indian River Shores' consent expire on November 6, 2016. Staff is unaware of any Commission order or Florida court case that directly addresses this question. Indian River Shores' allegations demonstrate that Indian River Shores as a municipality has sufficient interest in representing its asserted interests. Staff is also of the opinion that Indian River Shores' alleged substantial interests relate to a question appropriately addressed by the Commission, that is, whether there has been a changed circumstance that would require the Commission to modify the Territorial Orders and replace Vero Beach with FPL as electric service provider within the municipal boundaries of Indian River Shores.

Staff believes that Vero Beach's argument that the Florida Constitution does not afford any basis for modification of the Territorial Orders, that Indian River Shores waived consent, and arguments concerning the doctrine of administrative finality, are all arguments that go to the merits of Indian River Shores' request for modification of the Territorial Orders. Arguments on the merits are addressed in Issue 4, but they do not support denying Indian River Shores standing to request modification of the Territorial Orders based on changed circumstances emanating from the Florida Constitution. For the reasons explained above, staff recommends that the Commission deny Vero Beach's Motion to Dismiss, in part, and find that Indian River Shores has standing as a municipality to request modification of the Territorial Orders based on changed legal circumstances emanating from Article VIII, Section 2(c), of the Florida Constitution.

Issue 5: Should the Commission grant Indian River Shores' Petition for Modification of Territorial Order Based on Changed Legal Circumstances Emanating from Article VIII, Section 2(c) of the Florida Constitution?

Recommendation: No. The Commission should deny on the merits Indian River Shores' Petition for Modification of Territorial Order Based on Changed Legal Circumstances Emanating from Article VIII, Section 2(c) of the Florida Constitution because: (1) it fails to demonstrate that modification of the Territorial Orders is necessary in the public interest due to changed circumstances not present in the proceedings which led to the Territorial Orders; and (2) it fails to show that modification would not be detrimental to the public interest**.** (Cowdery, Draper)

Staff Analysis:

Legal Standard

In 1972, when the Commission first approved the territorial agreement between FPL and Vero Beach, the Florida Supreme Court had already established that the Commission had implied authority under Chapter 366, F.S., to approve territorial agreements between electric utilities. *City Gas Co. v. Peoples Gas System, Inc.*, 182 So. 2d 429, 436 (Fla. 1965). In 1974, the Florida Legislature codified this authority in Section 366.04, F.S., as part of the Grid Bill, Chapter 74-196, Laws of Florida.

Section 366.04, F.S., is the general law that gives the Commission exclusive and superior jurisdiction over territorial agreements between electric utilities. Section 366.04(2), F.S., gives the Commission the power to approve territorial agreements and to resolve any territorial disputes between and among municipal electric utilities and other electric utilities under its jurisdiction. Section 366.04(5), F.S., gives the Commission jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities. Section 366.04(1), F.S., states that the jurisdiction conferred upon the Commission shall be exclusive and superior to that of all other political subdivisions, including municipalities, and, in case of conflict therewith, all lawful acts and orders of the Commission shall in each instance prevail. Through territorial orders issued under this authority, the Commission, not municipalities, gets to decide which electric utility serves a given area. A franchise agreement between a local government and an electric utility cannot override a territorial order. *See Board of County Commissioners Indian River County, Florida v. Art Graham, etc., et al.*, 41 Fla. L. Weekly S 228 (Fla. 2016)(rejecting the argument that counties may use franchise agreements to choose their electric service provider because that would let counties do indirectly what the Commission's exclusive and superior jurisdiction over territorial agreements precludes them from doing directly).

The Territorial Orders give Vero Beach the right and obligation, as provided in Section 366.04, F.S., to supply electric service to the territory described, which includes the portion of Indian River Shores lying south of Old Winter Beach Road. *See Indian River County*, 41 Fla. L. Weekly S 228 (affirming the Commission's order that Vero Beach "has the right and obligation to

continue to provide retail electric service in the territory described in the Territorial Orders upon expiration of the Franchise Agreement" between Vero Beach and Indian River County).

The Territorial Orders are final orders of the Commission subject to the doctrine of administrative finality. Under that doctrine, the Commission has limited, inherent authority to modify its final orders in a manner that accords requisite finality to the orders, while still affording the Commission ample authority to act in the public's interest. *Peoples Gas*, 187 So. 2d at 339. The Commission may only modify a territorial order after proper notice and hearing, and upon a specific finding based on adequate proof that such modification or withdrawal of approval is necessary in the public interest because of changed conditions or other circumstances not present in the proceedings which led to the order being modified. *Id.*

The public interest is the ultimate measuring stick to guide the Commission in its decisions. *Gulf Coast Electric Cooperative v. Johnson*, 727 So. 2d 259, 264 (Fla. 1999)(affirming the Commission's denial of a request to establish territorial boundaries). In exercising its jurisdiction over the Territorial Orders and determining what is in the public interest, the Commission must consider all affected customers, both those transferred and those not transferred, and ensure that any modification works no detriment to the public interest as a whole. *See Utilities Commission of New Smyrna Beach v. Florida Public Service Commission*, 469 So. 2d 731, 732-33 (Fla. 1985).

Arguments of Indian River Shores and Vero Beach

Indian River Shores' arguments in support of modification of the Territorial Orders based on Article VIII, Section 2(c), Florida Constitution

Indian River Shores requests that the Commission modify the Territorial Orders by placing the entire municipality of Indian River Shores within FPL's service area. This would result in the transfer of approximately 3000 Vero Beach electric customers located south of Old Winter Beach Road to FPL which currently serves approximately 739 Indian River Shores residents located north of Old Winter Beach Road. Indian River Shores argues that this modification of the Territorial Orders is required pursuant to *Peoples Gas*, 187 So. 2d at 339, because fundamental legal circumstances have changed since the Commission last approved an amendment to the territorial agreement between FPL and Vero Beach in 1988. The changed legal circumstance alleged by Indian River Shores is that Vero Beach will no longer have Indian River Shores' consent to provide electric service within Indian River Shores upon expiration of the Franchise Agreement on November 6, 2016.

Indian River Shores argues that its consent is required because Article VIII, Section 2(c), Florida Constitution, states that "exercise of extra-territorial powers by municipalities shall be as provided by general or special law." Indian River Shores interprets this constitutional phrase to mean that the Legislature must grant the power to provide electricity outside Vero Beach's municipal borders directly to Vero Beach. Indian River Shores alleges that because the Legislature gave the Commission Section 366.04, F.S., authority over territorial agreements, and not Vero Beach, Vero Beach is not providing electric service in Indian River Shores as provided by general law. Indian River Shores alleges that because Vero Beach is not providing electric service in Indian River Shores as provided by general law, it requires Indian River Shores'

consent to do so. Indian River Shores argues that it gave Vero Beach this consent in the 1968 Contract and in the 1986 Franchise Agreement but that Vero Beach will lose this consent when the Franchise Agreement expires on November 6, 2016. Indian River Shores maintains that Vero Beach will be in violation of the Florida Constitution if it provides electric service within Indian River Shores without Indian River Shores' consent.

Indian River Shores argues that the Commission has acknowledged that an order approving a territorial agreement between a municipal utility and an investor-owned utility does not provide a municipal utility the inherent statutory authority to provide electric service outside its municipal boundaries. Indian River Shores alleges that in *In re: Joint petition for approval to amend territorial agreement between Progress Energy Florida, Inc. and Reedy Creek Improvement District*, Order No. PSC-10-0206-PAA-EU, issued Apr. 5, 2010, Docket No. 090530-EU (*Reedy Creek Order*), when a development area was de-annexed from the Reedy Creek Improvement District, the Commission "saw the need" to modify the territorial agreement because pursuant to its charter, Reedy Creek Improvement District cannot furnish retail electric power outside of its boundaries.

Indian River Shores argues that because its consent is required, the Commission as a matter of law must modify the Territorial Orders as requested in the Petition. Indian River Shores maintains that the Commission may not consider any of the factors relative to territorial disputes in Section 366.04(2)(e), F.S., and Rule 25-6.0441, F.A.C., or to territorial agreements in Section 366.04(2)(d), F.S., and Rule 25-6.0440, F.A.C. Indian River Shores states that it is not asking the Commission to redraw a service territory boundary between two utilities based on a statutory or rule criteria, factor-by-factor determination of which utility is best suited to serve considering the nature of the disputed area, ability of competing utilities to provide reliable service, their costs to provide service and similar evidence, and the avoidance of uneconomic duplication of distribution and subtransmission facilities. Indian River Shores alleges that even if territorial dispute criteria are relevant, the thrust of the Petition is its challenge to Vero Beach's legal ability to serve, which is one of those criteria.

Vero Beach's arguments in opposition to modification of the Territorial Orders

Vero Beach argues that the Petition should be dismissed as being barred by the doctrine of administrative finality because it does not meet the standard for modifying the Territorial Orders. Vero Beach states that the doctrine of administrative finality is one of fairness, based on the premise that the parties and the public may rely on Commission orders. Vero Beach further states that the Commission may only modify a territorial order upon a "specific finding based on adequate proof that such modification or withdrawal of approval is necessary in the public interest because of changed conditions or other circumstances not present in the proceedings which led to the order being modified." *Peoples Gas*, 187 So. 2d at 339. Vero Beach alleges that Indian River Shores' alleged changed circumstance -- expiration of the Franchise Agreement and Indian River Shores' withdrawal of its consent for Vero Beach to operate in Indian River Shores -- is not a changed circumstance relevant to the statutory criteria and factors that the Commission considered in approving the Vero Beach-FPL territorial agreements through the Territorial Orders. Vero Beach states that the Commission specifically found in the Territorial Orders that each version of the Vero Beach-FPL territorial agreements was in the public interest and

consistent with the Commission's Grid Bill authority to avoid uneconomic duplication of facilities.

Vero Beach further argues that there is no requirement and nothing concerning the need for Indian River Shores' consent in any of the statutes or rules relating to the Commission's Grid Bill jurisdiction, the territorial agreements between FPL and Vero Beach, or in the Territorial Orders. Vero Beach maintains that Indian River Shores' consent – if it existed – never had anything to do with the FPL-Vero Beach territorial agreements or Territorial Orders. Vero Beach alleges that it has been providing electricity to Indian River Shores for at least 63 years and that if Indian River Shores ever had a constitutional right to be protected against Vero Beaches' exercise of its power to provide electric service in Indian River Shores, Indian River Shores waived that right many years ago.

Vero Beach argues that in reliance on the Commission's Territorial Orders and Chapter 366, F.S., other legal authority, and the actions of Indian River County, Vero Beach has installed, operated, and maintained its electric system facilities for the purpose of providing electric service to its service territory. Vero Beach states that in fulfilling this necessary public purpose, it has invested tens of millions of dollars, borrowed tens of millions of dollars, and entered into long-term power supply projects and related contracts involving hundreds of millions of dollars of long-term financial commitments.

Vero Beach argues that Indian River Shores' list of public interest considerations for modifying the Territorial Orders has nothing to do with the Commission's Section 366.04(2), F.S., territorial jurisdiction or its Section 366.04(5), F.S., Grid Bill responsibilities. Instead, Vero Beach alleges, the list is merely a pretextual claim based solely on Indian River Shores' interest and not on the general public interest. Vero Beach further argues that the Petition's list of public interest considerations ignores the impacts that the requested modification to the Territorial Orders would have on the 32,000 customers served by Vero Beach outside Indian River Shores.

Analysis

The Petition does not show a change in circumstances that led to issuance of the Territorial Orders.

It is staff's opinion that Article VIII, Section 2(c) of the Florida Constitution did not require the Commission to obtain the consent of Indian River Shores in 1972 or subsequent proceedings as a prerequisite, or condition precedent, to the Commission approving the territorial agreements between FPL and Vero Beach. Article VIII, Section 2, Municipalities, states:

> (c) ANNEXATION. Municipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.

A plain reading of Article VIII, Section 2(c) is that Vero Beach's authority to supply electricity outside its boundaries must come from general or special law. It is staff's opinion that Vero Beach is providing electric service to customers in the territory approved in the Territorial Orders as provided by general law, Section 366.04, F.S. There is no additional constitutional

requirement in Article VIII, Section 2(c) for the Commission to obtain Indian River Shores' consent as a condition precedent to approving the territorial agreements between FPL and Vero Beach. Likewise, Section 366.04, F.S., contains no requirement for the Commission to obtain Indian River Shores' consent as a condition precedent to approving the territorial agreements between FPL and Vero Beach in order for Vero Beach to provide electric service within Indian River Shores.

Staff disagrees with Indian River Shores' argument that the constitutional phrase "exercise of extra-territorial powers by municipalities shall be as provided by general or special law" means that Section 366.04(2)(d), F.S., is not general law authorizing Vero Beach to provide electric service in Indian River Shores pursuant to the Territorial Orders. In *Ford v. Orlando Utilities Commission*, 629 So. 2d 845, 847 (Fla. 1994), relied upon by Indian River Shores, the Court found that where a municipality locates an electrical generating plant on its property in another county to supply electricity to that municipality's residents, but does not supply any electrical power to the county residents, the property is exempt from ad valorem taxation. *Ford* found that the Orlando Utilities Commission had statutory power to acquire and operate a utility plant in a neighboring county and that production of energy was a municipal purpose, and therefore it was exempt from taxation by the neighboring county. *Ford* does not address or support Indian River Shores' argument that Section 366.04, F.S., is not the general law pursuant to which Vero Beach is providing electric service to Indian River Shores.

Staff also disagrees with Indian River Shores' characterization that the Commission has acknowledged that a territorial order does not provide a municipal utility the inherent statutory authority to provide electric service outside its municipal boundaries. In the *Reedy Creek Order*, cited by Indian River Shores for this proposition, a joint petition to amend a territorial agreement was brought to the Commission for approval in order to reflect de-annexation of a planned development area from the Reedy Creek Improvement District political boundary and to avoid any potential for uneconomic duplication of electric facilities. The Commission approved the petition pursuant to Section 366.04(2)(d), F.S., giving consideration to factors of Rule 25-6.0440(2), F.A.C., and noting that there were no existing customers affected by the proposed territory amendment. The Commission order stated that the joint petition alleged that Reedy Creek Improvement District, pursuant to its charter, could not furnish retail electric power outside of its boundary. The Commission found that the amended territorial agreement appeared to eliminate existing or potential uneconomic duplication of facilities and did not cause a decrease in the reliability of electric service to existing or future ratepayers. There was no issue before the Commission concerning whether a municipality providing service within the boundaries of another municipality under a territorial order is considered to be providing service pursuant to general law.

Rule 25-6.0441(2)(d), F.A.C., provides that in resolving territorial disputes, the Commission may consider customer preference if all other factors are substantially equal. Rule 25-6.0442, F.A.C., provides that any substantially affected customer shall have the right to intervene in proceedings to approve a territorial agreement or resolve a territorial dispute. However, Indian River Shores did not participate in any of the four FPL – Vero Beach territorial agreement dockets before the Commission. Further, it does not appear that any issue was raised in any of those proceedings concerning the need for Indian River Shores' consent as a condition precedent to the

Commission approving the territorial agreements. In addition, neither the 1968 Contract nor the Franchise Agreement makes any reference to Article VIII, Section 2(c), nor do they contain any language that Indian River Shores is giving temporary consent to Vero Beach as a condition precedent to the Commission approving the territorial agreements between FPL and Vero Beach.

Even if the 1968 Contract or the Franchise Agreement were interpreted as containing language whereby Indian River Shores gave its temporary consent to Vero Beach to provide electric service within Indian River Shores, that language would not affect the validity of the Territorial Orders. In the case of conflict between Commission and municipality jurisdiction, the Commission's lawful orders shall in each instance prevail. *See Indian River County*, 41 Fla. L. Weekly S 228 (citing to Section 366.04(1), F.S.). Expiration of the Franchise Agreement on November 6, 2016, will not affect the validity of the Territorial Orders. Vero Beach will continue to have the right and obligation to provide electric service to the entire territory within the boundaries established in the Territorial Orders, including that portion of Indian River Shores located south of Old Winter Beach Road. *See Id.* (affirming the Commission's order declaring that upon expiration of the franchise agreement between Vero Beach and Indian River County on March 4, 2017, Vero Beach has the right and obligation to continue to provide retail electric service in the territory described in the Territorial Orders).

Because Indian River Shores' consent was not required by the Florida Constitution or Section 366.04, F.S., for the Commission's approval of the Vero Beach – FPL territorial agreements, Indian River Shores' alleged withdrawal of consent is not a change in any circumstance that was considered or relied upon by the Commission in issuing the Territorial Orders. For this reason, Indian River Shores' alleged withdrawal of consent when the Franchise Agreement expires on November 6, 2016, is not a change in circumstance requiring modification of the Territorial Orders.

The Petition fails to show that modifying the Territorial Orders is necessary to the public interest or that it would not be detrimental to the public interest.

Even if the issue of Indian River Shores' consent could be considered a changed circumstance supporting modification of the Territorial Orders, the Territorial Orders may only be modified if necessary to the public interest. Staff disagrees with Indian River Shores' argument that the Commission must modify the Territorial Orders without giving any consideration to the Commission's legislatively mandated responsibility over territorial agreements under Section 366.04(2), F.S. It is staff's opinion that in order to modify the Territorial Orders as requested by Indian River Shores, by transferring the territory containing approximately 3000 customers located south of Old Winter Beach Road from Vero Beach to FPL, the Commission must examine the factors normally considered under Section 366.04(2)(d) and (e), F.S., and Rules 25-6.0440 and 25-6.0441, F.A.C.

Under these statutes and rules, in order to determine whether modification of the Territorial Orders is in public interest, the Commission would need to consider criteria such as the terms and conditions pertaining to implementation of the transfer of customers, information with respect to affected customers, the reasonableness of the purchase price of any facilities being transferred, the effect of the transfer on reliability of electrical service to the existing or future

ratepayers of FPL and Vero Beach, the reasonable likelihood that the modification will eliminate existing or potential uneconomic duplication of facilities, the capability of FPL and Vero Beach to provide reliable electric service within the disputed area with their existing facilities, and the cost to FPL and Vero Beach to provide distribution and subtransmission facilities to the disputed area presently and in the future. Additionally, under Section 366.04(5), F.S., the Commission must determine what impact the requested modification would have on the coordinated electric power grid in Florida and to assure the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities.

Indian River Shores argues that the statutory and rule criteria for approval of territorial agreements and resolution of territorial disputes are inapplicable to its Petition. Nonetheless, it alleges that modifying the Territorial Order would be in the public interest because the transfer would give customers access to FPL's energy conservation programs, deployment of solar generation, smart meters, FPL's storm hardening initiatives, highly regarded management expertise, and high customer satisfaction ratings. These reasons, even if true, are insufficient to demonstrate that modifying the Territorial Orders is necessary in the public interest or that modification would work no detriment to the public interest as a whole.

Indian River Shores asks that the Commission ensure that Indian River Shores residents currently served by Vero Beach will be transitioned to service by FPL in an orderly and efficient manner. However, neither FPL nor Vero Beach has asked the Commission to modify the Territorial Orders by approving a territorial agreement or resolving a dispute between them. FPL alleges in its Petition to Intervene that it is ready, willing, and able to serve all of Indian River Shores residents "assuming reasonable terms were reached for the acquisition of the City of Vero Beach's electric facilities in that area." (emphasis added) However, there is no indication in this docket of any agreement for transfer of lines or facilities from Vero Beach to FPL. The filings show that by letter of August 12, 2015, FPL made a $13 million offer to purchase Vero Beach's facilities in Indian River Shores that was rejected by Vero Beach. The Commission does not have jurisdiction to order Vero Beach to sell its facilities to FPL. There is no information before the Commission concerning how a transfer of facilities would occur, the costs or facilities involved, impact of such a transfer on all affected customers, or other information normally considered by the Commission in approving a territorial agreement or resolving a territorial dispute. Without this information, the Commission cannot ensure an orderly and efficient transition of service from Vero Beach to FPL or determine whether such a transfer would be necessary in the public interest.

Conclusion

For the reasons set forth above, staff recommends that the Commission should deny on the merits Indian River Shores' Petition for Modification of Territorial Order Based on Changed Legal Circumstances Emanating from Article VIII, Section 2(c) of the Florida Constitution because: (1) it fails to demonstrate that modification of the Territorial Orders is necessary in the public interest due to changed circumstances not present in the proceedings which led to the Territorial Orders; and (2) it fails to show that modification would not be detrimental to the public interest.

Issue 6: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation, and if no person whose substantial interests are affected by the proposed agency action in Issue 5 files a protest within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a consummating order. (Cowdery)

Staff Analysis: Issue 5 should be issued as a proposed agency action. If the Commission approves staff's recommendation, and if no person whose substantial interests are affected by the proposed agency action files a protest of Issue 5 within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a consummating order.

Item 5

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Barrett, Lester)
Division of Engineering (Matthews)
Office of Industry Development and Market Analysis (Breman)
Office of the General Counsel (Janjic)

RE: Docket No. 160001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

AGENDA: 07/07/16 – Regular Agenda – Parties May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On June 2, 2016, Florida Power & Light Company (FPL) and the Office of Public Counsel (OPC) (collectively referred to as "Signatories") jointly filed a request for approval of a Stipulation and Settlement Agreement (Joint Motion) that addresses the resolution of two issues concerning the recovery of replacement power costs incurred during outage events that occurred at FPL's St. Lucie Unit 2 in 2014 and 2015. Signatories are bringing this Settlement Agreement before the Commission because they believe it is reasonable and in the public interest, as it will avoid the time and expense of protracted litigation of disputes over the April 2014, February 2015 and April 2015 outages in this or future proceedings. Although these issues were raised at different times in the Fuel Cost Recovery Clause docket (Fuel Clause), the proposed resolution of these issues will be included in this year's (2016) Fuel Clause proceeding, which is scheduled

for November 2-4, 2016. The Signatories state that all current parties in the Fuel Clause either take no position, or do not object to the Joint Motion.[1] The Stipulation and Settlement Agreement (Settlement Agreement) is attached as Exhibit 1.

The Commission has jurisdiction to consider this matter pursuant to Section 366.06, Florida Statutes (F.S.).

[1]Duke Energy Florida LLC, Gulf Power Company, Tampa Electric Company, Florida Public Utilities Company, and the Florida Industrial Power Users Group take no position on this Joint Motion, while PCS Phosphate – White Springs has no objection to it, and the Florida Retail Federation supports the Joint Motion.

Discussion of Issues

Issue 1: Should the Joint Motion For Approval of Settlement Agreement between FPL and OPC be approved?

Recommendation: Yes. (Barrett, Lester, Breman, Matthews)

Staff Analysis: FPL's St. Lucie Nuclear Station is located on Hutchinson Island, near Fort Pierce, Florida. The station features two baseload generating units, Unit 1 and Unit 2, with Net Summer Capacity ratings of 981 and 987 megawatts, respectively. Generally, when an outage event occurs, other resources in the fleet of generating plants are dispatched to make up for the load not being supplied by the off-line unit. Based upon the duration of an outage and the capacity reduction attributable to the outage, replacement power costs for an out-of-service unit can be calculated. The Commission has historically allowed for cost recovery of replacement power costs, unless it is determined that the outage resulted from an imprudent action by the utility.

As noted previously, the Joint Petition is a comprehensive settlement that resolves open issues in the Fuel Clause related to outage events that occurred at St. Lucie Unit 2 in 2014 and 2015, as described below.

March 2014 Outage (Issue 3J, previously identified as Issue 2N)

In March 2014, St. Lucie Unit 2 entered a planned outage for refueling and for other maintenance activities. During the start-up for bringing the unit back into service, FPL discovered foreign material in one of the unit's steam generators, necessitating an 18 day extension of the outage.[2] OPC proposed Issue 2N in the 2014 Fuel Clause proceeding to address the cost recovery of the replacement power due to the extension of the planned outage at St. Lucie Unit 2. By Order No. PSC-14-0439-PCO-EI,[3] the Commission deferred consideration of Issue 2N to the 2015 Fuel Clause, when the final true up of 2014 fuel costs would be addressed.

In the 2015 Fuel Clause proceeding, a revised list of issues meant that Issue 2N from the 2014 Fuel Clause proceeding was then identified as Issue 3J. FPL stated that it was in negotiations with its vendor regarding the March 2014 outage at St. Lucie Unit 2, but those negotiations would not be concluded in time to be presented at the 2015 Fuel Clause hearing. Therefore, by Order No. PSC-15-0586-FOF-EI,[4] the Commission again deferred considering the cost recovery of the replacement power due to the extension of the planned outage at St. Lucie Unit 2.

February 2015 Outage (Part 1 of Issue 3O)

An unplanned outage occurred at St. Lucie Unit 2 in February 2015 that lasted about 4 days. This outage was triggered when condenser tube chemistry limits were exceeded due to seawater

[2]Based on FPL's response to an interrogatory, the planned refueling outage was extended for 17.94 days. St. Lucie Unit 2 was off-line for a total of 52 days.
[3]Order No. PSC-14-0439-PCO-EI, issued August 22, 2014, in Docket No. 140001-EI, *In re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor.*
[4]Order No. PSC-15-0586-FOF-EI, issued December 23, 2015, in Docket No. 150001-EI, *In re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor.*

leakage in a hotwell. In the Joint Motion, FPL states that the leaking condenser tube and an additional 187 other tubes were repaired.

April 2015 Outage (Part 2 of Issue 3O)

The April 2015 outage involved work repairing a leak identified in the safety injection tank discharge header. Engineering analysis determined that vibration fatigue was the source of the leak, and FPL replaced the affected piping, modified the support structure for the piping in order to prevent future problems, and also revised the engineering standard to include more detail for piping supports.

In preparing for the 2015 Fuel Clause hearing, a single issue, Issue 3O, was added to address the cost recovery of replacement power due to the February and April outages. As reflected in Order No. PSC-15-0512-PHO-EI (Prehearing Order), the parties agreed to drop Issue 3O with the understanding that any party could raise it again in this year's (2016) Fuel Clause proceeding.[5]

Analysis of the Joint Motion

Staff and OPC served discovery requests to FPL in order to learn more about all of the outage events at St. Lucie Unit 2. In the Joint Motion, OPC stated it reviewed FPL's prepared testimony and exhibits and has conducted both formal and informal discovery regarding the causes of all 3 outages before it entered into the Settlement Agreement with FPL. As the Settlement Agreement states, FPL reached a confidential agreement with one of the vendors that performed work at St. Lucie Unit 2 during the March 2014 planned outage. As a result of the FPL vendor settlement, FPL will credit $8 million to the Fuel Clause for the purpose of calculating the fuel cost recovery factors for 2017, which will be set in the November hearing for Docket No. 160001-EI. The Signatories believe the $8 million credit as part of the Settlement Agreement resolves Issue 3J from Docket No. 150001-EI in its entirety, such that FPL's recovery of replacement power costs associated with the extended refueling outage in March 2014 will not be disputed in Docket No. 160001-EI or any other Commission proceeding. FPL and OPC agree that each entered into the Settlement Agreement voluntarily, that it fairly and reasonably balances the various positions of the parties on issues in these proceedings, and that it serves the best interests of the customers they represent and the public interest in general. The Signatories believe that the Settlement Agreement is reasonable and in the public interest.

For Issue 3O, the Signatories assert that cost recovery for replacement power associated with the February and April 2015 outage events will not be disputed in this year's (2016) Fuel Clause proceeding, or in any other Commission proceeding. Based on testimony and discovery responses in this docket, staff concurs.

The Joint Motion is a comprehensive settlement that resolves open issues in the Fuel Clause related to the three outage events described above. Due to the fact that the Signatories were able to reach the proposed stipulation on these issues well in advance of the hearing, and in order to provide greater certainty as to the scope of issues to be addressed in this year's Fuel Clause hearing, the Signatories have requested that the Commission consider the Joint Motion at the first available Agenda Conference and approve it at that time. The Joint Motion further states

[5]Order No. PSC-15-0512-PHO-EI, issued October 29, 2015, in Docket No. 150001-EI, *In re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor*.

that the parties to the Docket No. 160001-EI should be permitted to address the Settlement Agreement at the Agenda Conference. Staff believes the Joint Motion presents an opportunity to fully resolve these matters in advance of the November hearing in Docket No. 160001-EI, and therefore avoid the time and expense of protracted litigation of disputes over the April 2014, February 2015 and April 2015 outages in this or future proceedings. As set forth in the Joint Motion, FPL will credit $8 million to the Fuel Clause for the purpose of calculating the 2017 Fuel Clause factors, which will be approved in the hearing for Docket No. 160001-EI. Staff notes that the Settlement Agreement results in FPL's customers being refunded for replacement power costs that were incurred in 2014, notwithstanding that there has been no finding of imprudence with respect to any portion of these outages.

Staff believes it is reasonable and appropriate to approve the Joint Motion, because approval will avoid the time and expense of litigating these issues in Docket No. 160001-EI or future proceedings. The Signatories assert that the Settlement Agreement resolves Issues 3J and 3O from Docket No. 150001-EI in their entirety, and staff agrees. Upon approval, cost recovery for replacement power associated with these outage events will not be disputed in this year's (2016) Fuel Clause proceeding, or in any other Commission proceeding. The Signatories believe that the Settlement Agreement is reasonable and in the public interest. Staff agrees.

Summary

The Joint Motion is a comprehensive settlement that resolves open issues in the Fuel Clause. Staff and OPC thoroughly reviewed the materials FPL provided about these outages. Staff believes FPL took appropriate and reasonable actions to restore St. Lucie Unit 2 from these outage events, and staff acknowledges that no active party in Docket No. 160001-EI has asserted a contrary position on this Joint Motion.

Therefore, staff recommends that the Joint Motion between FPL and OPC be approved.

Issue 2: Should this docket be closed?

Recommendation: No. The fuel docket is on-going and should remain open. (Janjic)

Staff Analysis: The fuel docket is on-going and should remain open.

EXHIBIT 1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and purchase power cost recovery clause with generating performance incentive factor	Docket No: 160001-EI Date: April 22, 2016

STIPULATION AND SETTLEMENT

WHEREAS, Florida Power & Light Company ("FPL" or the "Company") and the Office of Public Counsel ("OPC") have signed this Stipulation and Settlement (the "Agreement"; unless the context clearly requires otherwise, the term "Party" or "Parties" means a signatory to this Agreement); and

WHEREAS, FPL's Petition for Approval of Its Fuel Cost Recovery and Capacity Cost Recovery Actual/Estimated True-Ups for the Period January 2014 through December 2014 (filed July 25, 2014 in Docket No. 140001) sought recovery of fuel costs prudently incurred in 2014. Included in that request were replacement power costs resulting from an extended refueling outage that occurred at FPL's St. Lucie Unit 2 in April 2014. $8,001,909 of the replacement power costs were associated with the extended outage duration resulting from discovery of foreign material in one of the steam generators during start up. By Order No. PSC-14-0439-PCO-EI, dated August 22, 2014, the Commission deferred OPC's issue concerning recovery of these replacement power costs to the 2015 Fuel Clause hearing, when the final true-up for 2014 fuel costs would be addressed; and

WHEREAS, pursuant to Order No. PSC-14-0701-FOF-EI, dated December 19, 2014, FPL was authorized to recover, and did recover, the above-described $8,001,909 fuel replacement costs in the fuel factors reflected in FPL customer bills effective January 2015, subject to refund; and

WHEREAS, in Order No. PSC-15-0586-FOF-EI, dated December 23, 2015, the Commission agreed to defer again OPC's issue concerning the 2014 St. Lucie-related replacement

power costs (Issue 3J) to 2016 in order to allow FPL to continue negotiations with vendors for potential reimbursement of replacement power costs; and

WHEREAS, FPL has reached a confidential settlement with one of the vendors that performed work at St. Lucie Unit 2 during that outage; and

WHEREAS, FPL's Petition for Approval of Its Fuel Cost Recovery and Capacity Cost Recovery Actual/Estimated True-Ups for the Period January 2015 through December 2015 (filed August 4, 2015 in Docket No. 150001) sought recovery of prudently incurred fuel costs, including replacement power costs resulting from two unplanned outages at FPL's St. Lucie Unit 2 in February and April 2015; and

WHEREAS, the February 2015 event involved a four-day outage related to a manual shutdown of Unit 2 after condenser chemistry action level limits were exceeded due to seawater leakage in the 2A1 Condenser Hotwell. The leaking condenser tube and an additional 187 selected tubes were plugged; and

WHEREAS, the April 2015 outage event involved a 10-day outage related to a leak identified in the safety injection tank discharge header. Analysis showed that the cause of the leak was vibration fatigue coming from the reactor coolant system. FPL replaced the affected piping and modified the support for the piping to prevent future problems and also revised the engineering standard to include more detail related to piping supports; and

WHEREAS, the prehearing order for Docket No. 150001-EI included an issue regarding whether the replacement power costs related to the unplanned outages at St. Lucie Unit 2 in February and April 2015 should be recovered through the fuel cost recovery clause (Issue 3O). The parties to Docket No. 150001 agreed to drop Issue 3O with the understanding that any party could raise it again in the 2016 Fuel Clause proceeding; and

WHEREAS, the Parties have filed prepared testimony with accompanying exhibits and conducted both formal and informal discovery regarding the causes of the above-described outage events;

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby stipulate and agree:

1. In light of its vendor settlement, FPL will credit $8 million to the Fuel Clause for the purpose of calculating the 2017 Fuel Clause factors to be approved in Docket No. 160001-EI.
2. Inclusion of this credit as part of this comprehensive settlement resolves Issue 3J from Docket No. 150001-EI in its entirety, such that FPL's recovery of replacement power costs associated with the extended refueling outage in April 2014 will not be disputed in Docket No. 160001-EI or any other Commission proceeding.
3. This comprehensive settlement also resolves issue 3O from Docket No. 150001-EI in its entirety, such that FPL's recovery of replacement power costs associated with the unplanned outages in February and April 2015 will not be disputed in Docket No. 160001-EI or any other Commission proceeding.
4. No Party will assert in any proceeding before the Commission that this Agreement or any of the terms in the Agreement shall have any precedential value because all Parties agree that the terms of the Agreement are specific to the facts and circumstances of this case. The Parties' agreement to the terms in the Agreement shall be without prejudice to any Party's ability to advocate a different position in future proceedings not involving the Agreement.
5. Issues 3J and 3O from Docket No. 150001-EI will be resolved as of the date the

Commission Order approving this Agreement is final, and no Party shall seek appellate review of any order approving this Agreement.

6. The provisions of this Agreement are contingent on approval of this Agreement in its entirety by the Commission without modification. The Parties further agree that they will support this Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Agreement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Agreement or the subject matter hereof.

7. This Agreement may be executed in counterpart originals, and a facsimile of an original signature shall be deemed an original.

8. Any person or entity that executes a signature page to this Agreement shall become and be deemed a Party with the full range of rights and responsibilities provided hereunder, notwithstanding that such person or entity is not listed in the first recital above and executes the signature page subsequent to the date of this Agreement, it being expressly understood that the addition of any such additional Party(ies) shall not disturb or diminish the benefits of this Agreement to any current Party.

9. This Agreement will become effective on the date the Commission Order approving this Agreement is final.

In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Agreement by their signature.

Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408

By: _____
R. Wade Litchfield

The Office of Public Counsel
J.R. Kelly, Esquire
The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399

By: _____
J.R. Kelly

5

Item 6

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Slemkewicz, Mouring, D. Buys)
Division of Economics (Johnson, Hudson)
Division of Engineering (Mtenga)
Office of the General Counsel (Mapp)

RE: Docket No. 150269-WS – Application for limited proceeding water rate increase in Marion, Pasco, and Seminole Counties, by Utilities, Inc. of Florida.

AGENDA: 07/07/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Utilities, Inc. of Florida (UIF or Utility) is a Class A utility providing water and wastewater service to twenty systems in the following counties: Marion, Orange, Pasco, Pinellas, and Seminole. On December 30, 2015, the Utility requested a limited proceeding water rate increase for Marion, Pasco, and Seminole Counties. UIF is a wholly-owned subsidiary of Utilities, Inc. (UI). The Utility's last rate case was in 2012.[1]

[1] Order No. PSC-14-0025-PAA-WS, issued January 10, 2014, in Docket No. 120209-WS, *In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida.*

On March 24, 2016, the Office of Public Counsel (OPC) filed its notice of intervention in this proceeding, and an Order acknowledging intervention was issued on April 4, 2016.[2] Prior to the notice of intervention, OPC submitted a letter, dated February 2, 2016, outlining concerns that OPC had with the Utility's petition for Marion, Pasco, and Seminole Counties.[3]

Customer meetings were held April 12 and 13, 2016, in New Port Richey and Ocala, respectively. Staff notes that no customers attended the meeting held on April 13, 2016, for the customers of Marion and Seminole Counties.

UIF filed a petition for a limited proceeding pursuant to Rule 25-30.446, Florida Administrative Code (F.A.C.). Driving the limited proceeding were (1) galvanized service line replacement costs in Marion County, (2) the loss of irrigation customers, plant additions, and purchased water costs in Pasco County, and (3) interconnection plant addition costs in Seminole County.

By letter dated June 8, 2016, UIF requested that the portion of this limited proceeding addressing a rate increase in Pasco County be bifurcated from the portion addressing rate increases in Marion and Seminole Counties.[4] OPC filed a response to UIF's bifurcation request on June 13, 2016.[5] As such, this recommendation addresses only the Utility's request for a limited proceeding water rate increase in Marion and Seminole Counties.

On April 12, 2016, the Commission acknowledged the reorganization and name change of UI's systems in Florida.[6] The instant docket applies only to the former Utilities Inc., of Florida systems, and does not include Utilities, Inc. of Longwood (Longwood) and Sanlando Utilities Corporation (Sanlando) in Seminole County.

The Commission has jurisdiction pursuant to Sections 367.081and 367.0822, Florida Statutes (F.S.).

[2] Order No. PSC-16-0135-PCO-WS, issued April 4, 2016.
[3] Document No. 00669-16
[4] Document No. 03459-16
[5] Document No. 03641-16
[6] Order No. PSC-16-0143-FOF-WS, issued April 12, 2016, in Docket No. 150235-WS, *In re: Joint application for acknowledgement of corporate reorganization and request for approval of name changes on water and/or wastewater certificates of Cypress Lakes Utilities, Inc. in Polk County; Utilities, Inc. of Eagle Ridge in Lee County; Utilities, Inc. of Florida in Marion, Orange, Pasco, Pinellas, and Seminole Counties; Labrador Utilities, Inc. in Pasco County; Lake Placid Utilities, Inc. in Highlands County; Lake Utility Services, Inc. in Lake County; Utilities, Inc. of Longwood in Seminole County; Mid-County Services, Inc. in Pinellas County; Utilities, Inc. of Pennbrooke in Lake County; Utilities, Inc. of Sandalhaven in Charlotte County; Sanlando Utilities Corporation in Seminole County; and Tierra Verde Utilities, Inc. in Pinellas County, to Utilities, Inc. of Florida.*

Discussion of Issues

Issue 1: Should the Utility's requested increases be approved as filed?

Recommendation: No. However, the Commission should approve water rate increases of $45,663 (or 28.85 percent) for Marion County and $16,142 (or 1.61 percent) for Seminole County, excluding Longwood and Sanlando. (Slemkewicz, Mtenga)

Staff Analysis: In its petition, UIF requested a Marion County water rate increase of $52,725 (or 33.83 percent) for the replacement of galvanized service lines. In Seminole County, the Utility requested a water rate increase of $20,693 (or 2.11 percent) for an interconnection project.

Rate Base

In its filing, the Utility requested a rate base increase of $310,779 for Marion County and $97,132 for Seminole County. The rate base components were Utility Plant in Service, Accumulated Depreciation, and Cash Working Capital.

Utility Plant in Service

In Marion County, the Utility replaced galvanized iron pipes, which were in place since the 1970s, and associated meter boxes because of ongoing pipe failures that caused significant water loss. The project was completed in April 2015 and cost $313,978. The Utility had implemented a practice of replacing each water service line as it failed but decided to replace all of the 125 water service lines to take advantage of economies of scale. UIF estimated that continuing the process of replacing the pipes as needed could be up to one and a half times more costly. In response to staff's data request, the Utility provided the three bids it received and notes that it chose the lowest cost option. Staff believes that, given the age and condition of the water service lines and economies of scale associated with replacing the 125 water service lines at once, the project is reasonable, and UIF should be allowed to recover these costs.

In Seminole County, the Utility requested approval for costs associated with interconnecting its Ravenna Park and Crystal Lake water systems including upgrades to the Ravenna Park water treatment plant storage facilities which were completed in July 2015. UIF stated that the project was initiated after excess infiltration of sand into the well pump of the sole water supply well, built in the 1950s, at Crystal Lake water system. The Utility proposed an interconnection after exploring two alternatives for the well failure. First, it explored downsizing the pump assembly and motor but found this option would not meet system demands and would lead to more pump replacements in the future. Second, it considered drilling a new well but found that the existing property's footprint was too small to allow for a new well. The cost for this interconnection project is $98,033 which includes the engineering evaluation, design, geotechnical services, bid documentation, permitting, and well abandonment costs. In response to staff's data request, UIF provided the four bids submitted for the interconnection and the lowest cost option was selected. Based on staff's review, the cost to complete the interconnection is reasonable and will meet customer demand.

Accumulated Depreciation

UIF included accumulated depreciation of $3,651 and $1,400 for Marion and Seminole Counties, respectively. Staff has reviewed the calculation of the depreciation expense and the accumulated depreciation and recommends they are appropriate in accordance with Rule 25-30.140, Florida Administrative Code (F.A.C.).

Working Capital Allowance

In its filing, UIF included a working capital allowance of $452 for Marion County and $499 for Seminole County. These amounts represent 1/8th of the rate case expense. However, staff has reduced the amount included in the working capital allowance based on the reductions made to the recommended amount of the total rate case expense. As a result, staff recommends that the appropriate amount of working capital is $211 and $242 for Marion and Seminole Counties, respectively.

After reviewing UIF's requested rate base increase, staff recommends that the adjusted amounts for rate base are $310,538 for Marion and $96,875 for Seminole as shown in Schedule Nos. 1 and 2.

Rate of Return

Per Schedule No. 11 of its filing for both Marion and Seminole Counties, UIF calculated an 8.03 percent rate of return (ROR). This ROR was based on a capital structure ended December 31, 2014, that only included long-term debt with a cost rate of 6.65 percent and common equity with a return on equity of 9.38 percent. That capital structure is not consistent with the capital structure used in the Utility's last rate case for Marion and Seminole Counties.[7] In addition, Rule 25-30.445(4)(e), F.A.C., requires that the weighted average cost of capital shall be calculated based on the most recent 12-month period using the mid-point of the range of the last authorized rate of return on equity and all of the appropriate capital structure components. In this instance, the most recent period available is the 12 months ended December 31, 2015. UIF calculated a December 2015 ROR of 7.85 percent on Schedule F-5 of its 2015 Annual Report. However, UIF did not use the mid-point equity cost rate of 10.38 percent or the minimum 2.00 percent cost rate for customer deposits pursuant to Rule 25-30.311(4)(a), F.A.C. Based on the foregoing, staff recalculated a December 2015 ROR of 7.68 percent as shown on Schedule No. 3.

Operating Expenses

In its filing, UIF requested operating expense increases, excluding income taxes, of $16,091 and $9,062 for Marion and Seminole Counties, respectively. These increases are related to depreciation and property taxes for the additional plant, as well as rate case expense.

Depreciation Expense

[7] Order No. PSC-14-0025-PAA-WS, issued January 10, 2014, in Docket No. 120209-WS, *In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida*

UIF included increased depreciation expense of $7,302 for Marion and $2,801 for Seminole related to the additional plant that was added. Staff reviewed the additional plant amounts and associated depreciation rates used in the calculation of the increased depreciation expense. In accordance with Rule 25-30.140, F.A.C., staff recommends that the requested depreciation expense increase is appropriate.

Rate Case Expense

In its filing, UIF estimated that the total rate case expense would be $46,779 for Marion, Pasco and Seminole Counties. Per Schedule No. 12 of its filing, UIF requested total rate case expenses of $14,474 and $15,967 for Marion and Seminole Counties, respectively. The resulting 4-year amortization amounts were $3,619 for Marion and $3,992 for Seminole. In response to a staff data request, UIF submitted an updated total rate case expense of $28,779 on June 10, 2016.[8] Staff reviewed the details of the updated rate case expense and determined that $6,349 of the expense was related directly to Pasco County. While UIF's request for Pasco County has been bifurcated from this proceeding, staff believes rate case expense should still be allocated across all three counties. As a result, the remaining balance to be allocated among the three counties is $22,430 ($28,779 - $6,349), of which $17,959 of the $22,430 rate case expense should be allocated equally among the three counties. The remaining $4,471 of rate case expense related to customer notices postage and stock should be allocated on a 16.9 percent for Marion, 39.3 percent for Seminole, and 43.9 percent for Pasco basis. The resulting annual rate case expense amortization is $1,684 ($6,737 divided by four years) for Marion County and $1,936 ($7,743 divided by four years) for Seminole County as shown on Schedule No. 4. The 4-year rate reduction for rate case expense is $1,760 and $2,023 for Marion and Seminole Counties, respectively. The recovery of any rate case expense related to Pasco County will be determined in the bifurcated portion of the limited proceeding.

Taxes Other Than Income

The Utility included increased Taxes Other Than Income (TOTI) of $5,170 and $2,269 for Marion and Seminole Counties, respectively. The increases were mainly related to the property taxes on the additional plant that was added. Staff has reviewed the property tax calculations of $5,170 for Marion and $1,495 for Seminole and recommends that they are reasonable. In Seminole County, however, UIF incorrectly included an additional $775 for regulatory assessment fees related to its calculation of annualized revenue. Staff has excluded this amount from its calculation resulting in increased TOTI of $5,170 and $1,495 for Marion and Seminole Counties, respectively.

Based on staff's review, the appropriate operating expense increases, excluding income taxes, are $14,156 for Marion County and $6,232 for Seminole County.

Calculation of Water Rate Increases

UIF calculated water rate increases of $52,725 (or 33.83 percent) for Marion County and $20,693 (or 2.11 percent) for Seminole County. Staff would note one error that the Utility made in its calculation of the income subject to state and federal income taxes. In calculating the taxable income amount, UIF multiplied the increased rate base amount by the total overall ROR of 8.03 percent. The proper calculation would be to multiply the increased rate base amount by

[8] Document No. 03733-16.

only the common equity weighted cost component of the ROR. In its calculation, staff used a common equity weighted cost component of 4.87 percent rather than the total overall ROR of 7.68 percent. Based on its adjustments, staff has calculated water rate increases of $45,663 (or 28.85 percent) for Marion County and $16,142 (or 1.61 percent) for Seminole County, excluding Longwood and Sanlando, as shown in Schedule Nos. 1 and 2.

Issue 2: What are the appropriate rates?

Recommendation: The recommended rate increase of 29.30 percent for Marion County and 1.65 percent for Seminole County, excluding Longwood and Sanlando, should be applied as an across-the-board increase to their respective existing service rates. The rates, as shown on Schedule Nos. 5 and 6, should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. The rates should be reduced as shown on Schedule Nos. 5 and 6, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. (Johnson)

Staff Analysis: Staff recommends that service rates for Utilities, Inc. of Florida be designed to allow the utility the opportunity to generate annual operating revenues of $203,940 and $1,017,618 for Marion County and Seminole County, excluding Longwood and Sanlando, respectively. Before removal of miscellaneous revenues, this would result in an increase of $45,663 (or 28.85 percent) for Marion County and $16,142 (or 1.61 percent) for Seminole County. To determine the appropriate increase to apply to the service rates, miscellaneous revenues should be removed from the test year revenues. The calculation is as follows:

Table 2-1
Percentage Service Rate Increase

		Marion	Seminole
1	Total Test Year Revenues	$158,277	$1,001,476
2	Less: Miscellaneous Revenues	$2,446	$21,103
3	Test Year Revenues from Service Rates	$155,831	$980,373
4	Revenue Increase	$45,663	$16,142
5	Percentage Service Rate Increase (Line 4/Line 3)	29.30%	1.65%

Source: Staff's Recommended Revenue Requirement and MFRs

Staff recommends that the rate increase of 29.30 percent for Marion County and 1.65 percent for Seminole County, excluding Longwood and Sanlando, should be applied as an across-the-board increase to the existing service rates. The rates, as shown on Schedule Nos. 5 and 6, should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be

implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days of the date of the notice. The rates should be reduced as shown on Schedule Nos. 5 & 6, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S.

Issue 3: Should the recommended rates be approved for the utility on a temporary basis, subject to refund with interest, in the event of a protest filed by a party other than the utility?

Recommendation: Yes. The recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility. UIF should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. The temporary rates should only be implemented after the Utility has provided written guarantee of its corporate undertaking in a cumulative amount of $41,308. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission Clerk's office no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. (Mouring, Slemkewicz, D. Buys, Mapp)

Staff Analysis: This recommendation proposes an increase in rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. As a result, staff recommends that the recommended rates be approved as temporary rates.

Section 367.0822(1), F.S., provides

> Upon petition or by its own motion, the commission may conduct limited proceedings to consider, and action upon, any matter within its jurisdiction, including any matter the resolution of which requires a utility to adjust its rates. The commission shall determine the issues to be considered during such a proceeding and may grant or deny any request to expand the scope of the proceeding to include other related matters. However, unless the issue of rate of return is specifically address in the limited proceeding, the commission shall not adjust rates if the effect of the adjustment would be to change the last authorized rate of return.

While Section 367.0822(1), F.S. does not expressly provide for the granting of temporary rates, it is well settled Commission precedent that temporary rates in the event of a protest may be approved on a case-by-case basis.[9]

Further, Section 367.081(2), F.S., provides that this Commission must fix rates that are just, reasonable, compensatory, and not unfairly discriminatory. Pursuant to its authority to grant just and reasonable rates, the Commission has granted emergency and temporary rates in limited

[9] Order No. PSC-09-0651-PAA-SU, issued September 28, 2009, in Docket No. 090121-SU, *Application for limited proceeding rate increase in Seminole County by Alafaya Utilities, Inc.*; and Order No. PSC-10-0682-PAA-WS, issued November 15, 2010, in Docket No. 090349-WS, *Application for limited proceeding rate increase in Polk County by Cypress Lakes Utilities, Inc*.

proceedings where a timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Similarly, in the instant case, staff believes that the granting of temporary rates is warranted because a timely protest of the PAA Order may delay a justified rate increase for several months while the matter is adjudicated at hearing. Moreover, staff believes that the ratepayers are adequately protected because all rates collected by the Utility will be subject to the corporate undertaking as discussed below.

For the foregoing reasons, staff believes that the recommended rates should be approved for the Utility on a temporary basis, subject to the corporate undertaking discussed below. In order to ensure that the Utility may not unfairly benefit from the issuance of temporary rates and in order to comport with the granting of temporary rates in proceedings filed pursuant to Sections 367.081 and 367.0814, F.S., staff further recommends that temporary rates should only be allowed in the event of a protest filed by an entity or individual other than the Utility

Corporate Undertaking Memorandum

Utilities, Inc. of Florida is a wholly-owned subsidiary of UI, which provides all investor capital to its subsidiaries. Based on the amount subject to refund for Marion and Seminole Counties the incremental increase in UI's corporate undertaking is $30,519 and $10,789, respectively. There are no other current corporate undertaking amounts outstanding for other UI systems in Florida, so therefore, the total cumulative outstanding guarantee is $41,308.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Staff reviewed UI's 2013, 2014, and 2015 financial statements to determine if the company can support a corporate undertaking on behalf of its subsidiary. In its 2013 financial statements, UI reported an insufficient working capital amount and an inadequate current ratio and interest coverage ratio. In 2014, UI reported insufficient working capital and an inadequate current ratio; however, the interest coverage ratio improved to adequate. In 2015, UI had sufficient working capital, and both the current ratio and interest coverage ratio were adequate. In addition, UI achieved sufficient profitability and reported adequate ownership equity over the entire 3-year review period.

Based on staff's review of the financial reports submitted by UI, staff believes UI has adequate resources to support a corporate undertaking in the amount requested. Based on this analysis, staff recommends that a cumulative corporate undertaking of $41,308 is acceptable contingent upon receipt of the written guarantee of UI and written confirmation that the cumulative outstanding guarantees on behalf of UI-owned utilities in other states will not exceed $1.2 million (inclusive of all Florida utilities).

The brief financial analysis above is only appropriate for deciding if UI can support a corporate undertaking in the amount proposed and should not be considered a finding regarding staff's position on other issues in this proceeding.

The Utility should maintain a record of the amount of the corporate undertaking memorandum, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission

Clerk's office no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month.

Further, in no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the Utility. Irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase should be maintained by the Utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

Conclusion

The recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility. UIF should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. The temporary rates should only be implemented after the Utility has provided written guarantee of its corporate undertaking in a cumulative amount of $41,308. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed in staff's analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission Clerk's office no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month.

Issue 4: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should remain open pending the Commission's decision on the Utility's requested rate increase in Pasco County. (Mapp)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should remain open pending the Commission's decision on the Utility's requested rate increase in Pasco County.

UTILITIES, INC. OF FLORIDA - MARION COUNTY WATER REVENUE REQUIREMENTS INCREASE			SCHEDULE NO. 1 DOCKET NO. 150269-WS
		UTILITY FILING	STAFF RECOMMENDATION
Line No.			
1	Utility Plant in Service (UPIS)	$313,978	$313,978
2	Retirements	-	-
3	Accumulated Depreciation	(3,651)	(3,651)
4	Contributions in Aid of Construction (CIAC)	-	-
5	Accumulated Amortization of CIAC	-	-
6	Working Capital	452	211
7	Total Increase in Rate Base	$310,779	$310,538
8	Weighted Cost of Capital	8.03%	7.68%
9	Return Required	$24,968	$23,849
10	Increase in Depreciation Expenses Due to UPIS Increase	$7,302	$7,302
11	Decrease in Depreciation Expense Due to Retirements	-	-
12	Increase in CIAC Amortization	-	-
13	Increase in Rate Case Expense	3,619	1,684
14	Increase in Taxes Other Than Income Taxes	5,170	5,170
15	Total Increase in Operating Expenses Before Income Taxes	$16,091	$14,156
16	Total State Taxable Income	$24,968	$15,123
17	Multiply by State Income Tax (5.5%)	1,373	832
18	Total Federal Taxable Income	$23,595	$14,291
19	Multiply by Federal Income Tax (34%)	8,022	4,859
20	Total Revenue Increase Before RAF (L9 + L15 + L17 + L19)	$50,454	$43,697
21	Multiply by RAF (4.5%)	2,270	1,966
22	Total Water Revenue Increase	$52,725	$45,663
23	Annualized Revenues	$155,831	$158,277
24	Percentage Increase in Rates	33.83%	28.85%
25	4-Year Rate Reduction (Rate Case Expense)		$1,760

UTILITIES, INC. OF FLORIDA - SEMINOLE COUNTY (EXCLUDING SANLANDO) WATER REVENUE REQUIREMENTS INCREASE			SCHEDULE NO. 2 DOCKET NO. 150269-WS
		UTILITY FILING	STAFF RECOMMENDATION
Line No.			
1	Utility Plant in Service (UPIS)	$98,033	$98,033
2	Retirements	-	-
3	Accumulated Depreciation	(1,400)	(1,400)
4	Contributions in Aid of Construction (CIAC)	-	-
5	Accumulated Amortization of CIAC	-	-
6	Working Capital	499	242
7	Total Increase in Rate Base	$97,132	$96,875
8	Weighted Cost of Capital	8.03%	7.68%
9	Return Required	$7,804	$7,440
10	Increase in Depreciation Expenses Due to UPIS Increase	$2,801	$2,801
11	Decrease in Depreciation Expense Due to Retirements	-	-
12	Increase in CIAC Amortization	-	-
13	Increase in Rate Case Expense	3,992	1,936
14	Increase in Taxes Other Than Income Taxes	2,269	1,495
15	Total Increase in Operating Expenses Before Income Taxes	$9,062	$6,232
16	Total State Taxable Income	$7,804	$4,718
17	Multiply by State Income Tax (5.5%)	429	259
18	Total Federal Taxable Income	$7,374	$4,458
19	Multiply by Federal Income Tax (34%)	2,507	1,516
20	Total Revenue Increase Before RAF (L9 + L15 + L17 + L19)	$19,802	$15,447
21	Multiply by RAF (4.5%)	891	695
22	Total Water Revenue Increase	$20,693	$16,142
23	Annualized Revenues	$980,373	$1,001,476
24	Percentage Increase in Rates	2.11%	1.61%
25	4-Year Rate Reduction (Rate Case Expense)		$2,023

UTILITIES, INC. OF FLORIDA CAPITAL STRUCTURE DECEMBER 31, 2015				SCHEDULE NO. 3 DOCKET NO. 150269-WS
	($) AMOUNT	RATIO	COST RATE	WEIGHTED COST
PER 2015 ANNUAL REPORT				
Common Equity	$5,330,494	46.96%	10.69%	5.02%
Long-Term Debt	4,751,261	41.86%	6.66%	2.79%
Short-Term Debt	14,899	0.13%	10.08%	0.01%
Customer Deposits	53,988	0.48%	6.00%	0.03%
Deferred Income Taxes	1,199,429	10.57%	0.00%	0.00%
Total	$11,350,071	100.00%		7.85%
STAFF RECOMMENDATION				
Common Equity	$5,330,494	46.96%	10.38%	4.87%
Long-Term Debt	4,751,261	41.86%	6.66%	2.79%
Short-Term Debt	14,899	0.13%	10.08%	0.01%
Customer Deposits	53,988	0.48%	2.00%	0.01%
Deferred Income Taxes	1,199,429	10.57%	0.00%	0.00%
Total	$11,350,071	100.00%		7.68%

UTILITIES, INC. OF FLORIDA **SCHEDULE NO. 4**
RATE CASE EXPENSE **DOCKET NO. 150269-WS**

	STAFF ADJUSTED	MARION	SEMINOLE	PASCO
Updated Total Rate Case Expense (a)	$28,779			
Customer Notices - Postage	(3,963)			
Customer Notices - Stock	(508)			
Adjustments for PASCO County Items Only:				
12/27/15 - Loss of Irrigation Revenues	(252)			
03/31/16 - Staff's 3rd Data Request	(36)			
04/07/16 - Conference Call ($72 x .667)	(48)			
04/08/16 - Conf. Call & Correspondence ($72 x .667)	(48)			
04/12/16 - Pasco Customer Meeting Travel	(5,400)			
04/16/16 - Staff's 3rd Data Request	(72)			
04/16/16 - Pasco County Issue	(72)			
04/18/16 - Travel (Pasco)	(241)			
04/26/16 - Staff's 3rd Data Request	(72)			
05/04/16 - Staff's 4th Data Request	(36)			
05/13/16 - Staff's 4th Data Request	(72)			
Total Adjustments	($10,820)			
Adjusted Rate Case Expense (1/3 to each County)	$17,959	$5,986	$5,986	$5,987
Customer Notices - Postage (16.8%/39.3%/43.9%)	3,963	666	1,557	1,740
Customer Notices - Stock (16.8%/39.3%/43.9%)	508	85	200	223
Total Rate Case Expense	$22,430	$6,737	$7,743	$7,950
4-Year Amortization		$1,684	$1,936	

Notes:
(a) Document No. 03733-16.

UTILITIES, INC. OF FLORIDA - MARION COUNTY MONTHLY WATER RATES			SCHEDULE NO. 5 DOCKET NO. 150269-WS
	UTILITY CURRENT RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
Residential and General Service			
Base Facility Charge by Meter Size			
5/8"X3/4"	$3.70	$4.78	$0.04
1"	$9.26	$11.95	$0.10
1-1/2"	$18.52	$23.90	$0.21
2"	$29.62	$38.24	$0.33
3"	$59.24	$76.48	$0.67
4"	$92.57	$119.50	$1.04
6"	$185.13	$239.00	$2.08
Charge per 1,000 gallons	$2.24	$2.90	$0.03
Typical Residential 5/8" x 3/4" Meter Bill Comparison			
3,000 Gallons	$10.42	$13.48	
8,000 Gallons	$21.62	$27.98	
16,000 Gallons	$39.54	$51.18	

UTILITIES, INC. OF FLORIDA - SEMINOLE COUNTY, EXCLUDING SANLANDO MONTHLY WATER RATES			SCHEDULE NO. 6 DOCKET NO. 150269-WS
	UTILITY CURRENT RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
Residential and General Service			
Base Facility Charge by Meter Size			
5/8"X3/4"	$8.32	$8.46	$0.02
1"	$20.79	$21.15	$0.04
1-1/2"	$41.58	$42.30	$0.08
2"	$66.52	$67.68	$0.14
3"	$133.06	$135.36	$0.27
4"	$207.89	$211.50	$0.42
6"	$415.79	$423.00	$0.85
Charge per 1,000 gallons - Residential			
0 - 8,000 gallons	$3.70	$3.76	$0.01
8,001 - 16,000 gallons	$6.46	$6.57	$0.01
Over 16,000 gallons	$8.31	$8.45	$0.02
Charge per 1,000 gallons - General Service	$4.34	$4.41	$0.01
Typical Residential 5/8" x 3/4" Meter Bill Comparison			
3,000 Gallons	$19.42	$19.74	
8,000 Gallons	$37.92	$38.54	
16,000 Gallons	$89.60	$91.10	

Item 7

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Wooten)
Division of Economics (Guffey)
Office of the General Counsel (Trierweiler)

RE: Docket No. 160140-EQ – Petition for approval of modifications to standard interconnection agreement contained in the approved tariff by Duke Energy Florida, LLC.

AGENDA: 07/07/16 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 08/01/2016 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On June 2, 2016, Duke Energy Florida, LLC (DEF) filed a petition for approval of 2016 modifications to its Standard Interconnection Agreement in DEF's approved tariffs. This Standard Interconnection Agreement was last modified by Order No. PSC-14-0660-CO-EI.[1] The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

[1] Order No. PSC-14-0660-CO-EI, issued November 14, 2014, in Docket No. 140137-EI, *In re: Petition for approval of modifications to tariff sheet Nos. 9.100 through 9.330 and tariff sheet Nos. 9.700 through 9.709 as-available purchase tariff and interconnection agreement, by Duke Energy Florida, Inc.*

Discussion of Issues

Issue 1: Should DEFs proposed standard interconnection tariffs be suspended?

Recommendation: Yes. Staff recommends that the tariffs be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposals. (Wooten)

Staff Analysis: Staff recommends that the tariffs be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposals.

Pursuant to Section 366.06(3), F.S., the Commission may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the Utility requesting such a change, a reason, or written statement of good cause for doing so within 60 days. Staff believes that the reason stated above is a good cause consistent with the requirement of Section 366.06(3), F.S.

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Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the Commissions decision on the proposed tariffs. (Trierweiler)

Staff Analysis: This docket should remain open pending the Commissions decision on the proposed tariffs.

Item 8

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (M. Watts)
Division of Accounting and Finance (T. Brown)
Division of Economics (Hudson)
Office of the General Counsel (Murphy)

RE: Docket No. 150236-WU – Application for staff-assisted rate case in Lake County, by Lake Idlewild Utility Company.

AGENDA: 07/07/16 – Proposed Agency Action – Except for Issue Nos. 9, 11, and 12 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Patronis

CRITICAL DATES: 03/23/2017 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS: None

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Case Background

Lake Idlewild Utility Company (Lake Idlewild or Utility) is a Class C utility providing water service to approximately 77 residential customers in Lake County. Certificate No. 531-W was initially granted to W.B.B. Utilities, Inc. (WBB) in 1991.[1] WBB had been in operation since 1983, serving 21 lots, but had not been subject to Commission jurisdiction because of its size. Rates were last established for this Utility in 1994.[2] The Utility was transferred to Lake Idlewild in 2015.[3]

On December 23, 2015, Lake Idlewild officially filed its application for a staff-assisted rate case (SARC). According to Lake Idlewild's 2015 Annual Report, total gross revenues were $33,764 and total operating expenses were $36,917, resulting in a net loss of $3,153.

A customer meeting was held on May 12, 2016, at the Town of Lady Lake, Town Commission Chambers, to receive customer questions and comments concerning the Utility's rate case and quality of service. The Commission has jurisdiction in this case pursuant to Section 367.0814, Florida Statutes (F.S.).

[1]Order No. 24007, issued January 22, 1991, in Docket No. 900826-WU, *In re: Application for a water certificate in Lake County by W.B.B. Utilities, Inc.*
[2]Order No. PSC-94-0236-FOF-WU, issued March 3, 1994, in Docket No. 930656-WU, *In re: Application for a staff-assisted rate case in Lake County by W.B.B. Utilities, Inc.*
[3]Order No. PSC-15-0140-PAA-WU, issued March 23, 2015, in Docket No. 140170-WU, *In re: Application for approval of transfer of Certificate No. 531-W from W.B.B. Utilities, Inc. to Lake Idlewild Utility Company in Lake County.*

Discussion of Issues

Issue 1: Should the quality of service provided by Lake Idlewild be considered satisfactory?

Recommendation: Yes. The overall quality of service provided by Lake Idlewild should be considered satisfactory. (M. Watts)

Staff Analysis: Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), in water and wastewater rate cases, the Commission shall determine the overall quality of service provided by the utility. This is derived from an evaluation of three separate components of the utility's operations. These components are the quality of the utility's product, the operational conditions of the utility's plant and facilities, and the utility's attempt to address customer satisfaction. The rule further states that sanitary surveys, outstanding citations, violations, and consent orders on file with the Department of Environmental Protection (DEP) and the county health department over the preceding three-year period shall be considered. Additionally, Section 367.0812(1)(c), F.S., requires the Commission to consider the extent to which the utility provides water service that meets secondary water quality standards as established by the DEP.

Lake Idlewild's service territory is located in Lake County within the St. John's River Water Management District (SJRWMD), with a consumptive use permit expiring in August 2020. Lake Idlewild serves residential customers in one subdivision from water it produces and treats with its own water system.

Quality of Utility's Product

Staff's evaluation of Lake Idlewild's water quality consisted of a review of the Utility's compliance with the DEP primary and secondary drinking water standards and customer complaints regarding the water quality. Primary standards protect public health while secondary standards regulate contaminants that may impact the taste, odor, and color of drinking water.

Staff reviewed the chemical analysis with samples dated April 23, 2015. All of the primary and secondary contaminants were below the Maximum Contaminant Level established by DEP. Staff's review of complaints filed with the Commission, did not reveal any issues or concerns regarding the quality of Lake Idlewild's product.

On June 14, 2016, staff requested complaints against the system filed with DEP for the test year and four years prior. DEP reported that it did not receive any complaints regarding secondary water standards during that period, but had received one complaint against the system in 2011, which is discussed in a later section of this issue.

Based on staff's review, giving consideration to the Utility's current compliance with DEP standards, as well as the lack of customer complaints, the quality of Lake Idlewild's product should be considered satisfactory.

Operating Condition of the Utility's Plant and Facilities

Staff's evaluation of Lake Idlewild's facilities included a review of the Utility's compliance standards of operation as well as a site visit. Staff reviewed the latest DEP sanitary survey report, dated July 23, 2014, which was conducted when the prior owners, WBB, operated the system. No deficiencies were found, and DEP determined that the system was in compliance with its rules and regulations. Staff did not identify any issues or concerns during its May 12, 2016, site visit. Therefore, the operating condition of Lake Idlewild's water treatment plant and facilities should be considered satisfactory.

The Utility's Attempt to Address Customer Satisfaction

The final component of the overall quality of service that must be assessed is the Utility's attempt to address customer satisfaction. Staff assesses this by reviewing the Utility's response to comments provided as a result of a customer meeting, both written and oral, and to complaints filed by its customers.

Customer Meeting/Written Comments

As part of staff's evaluation of customer satisfaction, staff held a customer meeting (May 12, 2016) to receive customer comments concerning Lake Idlewild's quality of service. Seven customers attended the meeting, and five of them provided comments. As of the filing date of this recommendation, the Commission has received correspondence from two customers.

Four of the customers who spoke at the customer meeting objected to the magnitude of the proposed rate increase. Two of those customers were specifically concerned that the Utility's decision to change from quarterly to monthly billing would further increase rates. Two customers reported problems with water pressure when their neighbor is irrigating his/her lawn. One customer reported that the water smelled like rotten eggs.

Both of the customers who provided written comments to the Commission subsequent to the customer meeting objected to the magnitude of the rate increase. Additionally, one of the customers expressed concerns with the switch from quarterly to monthly billing, as well as pressure problems experienced when a neighbor is irrigating the lawn.

On June 10, 2016, Lake Idlewild provided a written response to the oral and written concerns regarding the water pressure and monthly billing. For each customer who expressed a concern with the water pressure, the Utility sent a technician to each residence to test the water flow delivered at the meter. The water delivered at one customer's meter was 21.7 gallons per minute (gpm), and the flow delivered at the other customer's meter was 19.6 gpm. As stated in its June 10, 2016 letter, the Utility believes its test demonstrated it delivered adequate water flow at the customers' meters. The Utility also tested the chlorine residual at each residence and found that each reading was within the range required by DEP for safe drinking water.

To further test whether the water pressure was adequate, the Utility placed water pressure data loggers at these customers' residences (on an outside water faucet) to record a week-long sample of data. The data loggers show that for one resident, the water pressure never dropped below 30 pounds per square inch (psi) (20 psi is the DEP minimum requirement). The other resident's water pressure remained above 20 psi with one exception, when it dropped just below 10 psi.

Finally, the Utility installed water pressure data loggers within the distribution system at two fire hydrants to test the overall system pressure. The data loggers recorded the water pressure at the two points in the system for a period of one week. One data logger recorded pressures during the test period of 42 psi to 62 psi. The other data logger recorded pressures from 50 psi to 71 psi. These readings are above the minimum system pressure required by DEP of 20 psi. Thus, it appears that the pressure delivered by the Utility is sufficient overall.

The Utility noted that its tests show that it does not have system-wide pressure problems, and it delivers sufficient pressure at the customers' meters. The Utility stated that the configuration of the service lines, with one line from the main used to supply two adjacent houses, is common in Florida, but it can lead to the pressure problems some residents experience when their neighbor is irrigating. The Utility also noted that many residents use an unusually high volume of water for irrigation. Given these conditions, it appears that a viable solution would be to install additional dedicated service lines to these customers, the cost of which would be borne by the customer requesting a dedicated tap from the main.

On June 20, 2016, the Utility provided a supplemental written response that addressed one of the comments made at the customer meeting, and provided more information on some of the complaints filed with the Utility during the test year. The Utility's response indicated that, after the customer meeting, Utility representatives spoke with the customer who reported his water smelling like rotten eggs. The Utility reported that the customer indicated that it happened in the past, that it was a one-time event, and has not happened since.

In addressing the issue of changing from quarterly to monthly billing, the Utility quoted the Commission's order approving the requested change:[4]

> We agree with the Utility that monthly billing is beneficial to both the customers and the Utility. Monthly billing encourages water conservation because customers will get more timely information of their water usage patterns. Also, monthly billing allows the Utility to match revenues as closely as possible to expenses.

The Utility also asserts that the customers' high level of irrigation, which leads to the water pressure problems reported, is partly a result of rates that were set by this Commission in 1994 and are much lower than they should be. Consistent with the Commission's order, the Utility asserts that monthly billing will help encourage water conservation by providing timely information on consumption patterns.

Complaints

Staff requested copies of complaints filed with the Utility during the test year and four years prior. The Utility did not have customer complaint records from the previous owner, but reported a total of 22 customer contacts associated with 17 different accounts during the test year. This

[4]Order PSC-14-0681-TRF-WU, issued December 9, 2014, in Docket No. 140171-WU, *In re: Request for approval of water rate tariff for a revision in customer billing from quarterly billing to monthly billing by W.B.B. Utilities, Inc. in Lake County.*

includes eight billing inquiries, eight interruptions of service, two reconnections, two general inquiries, and two water quality issues. Lake Idlewild addressed the complaints as shown in Table 1-1 below.

Table 1-1
Lake Idlewild Complaints

Complaint	Resolution
Billing	Adjusted bill, checked for leaks, or provided bill clarification, as appropriate.
Service Interruption	Repaired water main breaks; issued precautionary boil water notices.
Reconnection	Reconnected customers when payment received.
General Inquiry	1) Provided bill when asked why customer had not received one. 2) Tenant requested to be billed directly. Utility requested copy of lease for tenancy verification, but tenant moved out without providing it.
Water quality	1) Strong chlorine smell – checked chlorine residual. It was within the maximum-minimum limits set by DEP. 2) Bad smell and discolored after a water outage. It had cleared up when technician arrived, and chlorine residual tested within the limits set by DEP.

Source: Document Nos. 00104-16 and 03838-16

As stated previously, staff requested complaints against the system filed with DEP for the test year and four years prior. DEP provided information regarding a complaint concerning system water pressure filed in 2011, when the Utility was owned by WBB. The customer stated that the water pressure in the community would drop considerably when the pump for WBB's larger well failed. He asked what the DEP's requirement was for minimum water pressure. DEP replied that its minimum system water pressure was 20 psi, below which the water service provider would be required to issue precautionary boil water notices. DEP stated in its 2011 response to the customer that there had been two such events since 2009.

Finally, staff reviewed the Commission's complaint records and found no complaints filed against either of the utilities that had ownership of the water system for the period September 30, 2011, through June 1, 2016. Based on the Utility's response to customers' written and oral concerns expressed in connection with the customer meeting, the lack of complaints filed with the Commission, the scarcity and age of those filed with DEP, as well as its response to complaints filed directly with the Utility, staff recommends the Utility's attempt to address customer satisfaction should be considered satisfactory.

Conclusion

Based on the foregoing, the overall quality of service provided by Lake Idlewild should be considered satisfactory.

Issue 2: What is the Used and Useful percentage (U&U) of Lake Idlewild's water treatment and distribution system?

Recommendation: The Utility's water treatment and distribution systems should be considered 100 percent U&U, and no adjustments should be made for excessive unaccounted for water (EUW). (M. Watts)

Staff Analysis: Lake Idlewild's water system is served by two wells, 6-inch and 8-inch in diameter, capable of producing 50 and 750 gpm, respectively. The raw water is treated by hypochlorination prior to entering the water distribution system. The Water Treatment Plant (WTP) recently reduced its permitted capacity to 252,000 gallons per day (gpd). The Utility is permitted to withdraw an average of 60,000 gpd on an annual basis through August 2020 and is currently in compliance with its permit.

The distribution system is a network of approximately 5,025 linear feet of 4-inch PVC pipe and 942 linear feet of 2-inch PVC pipe. The distribution system seems to be properly sized and engineered to meet pressure and supply demands.

Water Treatment System Used & Useful

Rule 25-30.4325, F.A.C., describes the calculation of U&U for WTP as the sum of the maximum peak demand, plus fire flow demand, plus a growth allowance minus EUW, all divided by the water system's firm reliable capacity. As the system does not have significant storage capacity, this calculation is based on its flow rate in gpm. The Commission previously calculated a 100 percent U&U for the WTP based on a single well.[5] As the system has expanded since the last SARC to include a second well, staff has recalculated the U&U based upon the current water treatment system.

The firm reliable capacity is defined for systems with more than one well as the pumping capacity of all wells combined minus the largest individual well. For Lake Idlewild, this yields a value of 50 gpm. DEP rates the treatment facilities at a capacity of 252,000 gpd, or 175 gpm. Therefore the well-based capacity is not constrained by treatment capacity.

Based on the Monthly Operating Reports (MORs) provided by the Utility, it experienced a peak day on August 10, 2015, with a daily flow of 106,000 gallons. Utility records indicate a line break occurred that day, which disqualifies it from consideration. The second highest peak day during the test year was May 8, 2015, with a daily flow of 80,000 gallons, with regular operating conditions. Converting this value to a gpm basis results in a maximum peak demand of 55.6 gpm. As noted in Lake Idlewild's application, Lake County requires a fire flow of 750 gpm. Lastly, as discussed below, no growth allowance or EUW have been identified for this system.

The final calculation of U&U ([Peak Demand + Fire Flow + Growth – EUW]/Capacity) exceeds 100 percent. Based on this, the WTP should be considered 100 percent U&U.

[5]Order No. PSC-94-0236-FOF-WU, issued March 3, 1994, in Docket No. 930656-WU, *In re: Application for a staff-assisted rate case in Lake County by W.B.B. Utilities, Inc.*

Excessive Unaccounted for Water

Rule 25-30.4325(1)(e), F.A.C., describes EUW as unaccounted for water in excess of 10 percent of the amount produced. When establishing the Rule, the Commission recognized that some uses of water are readily measurable and others are not. Unaccounted for water is all water that is produced that is not sold, metered or accounted for in the records of the Utility. The Rule provides that to determine whether adjustments to plant and operating expenses, such as purchased electrical power and chemical costs, are necessary, the Commission will consider all relevant factors as to the reason for EUW, solutions implemented to correct the problem, or whether the proposed solution is economically feasible. The unaccounted for water is calculated by subtracting both the gallons used for other purposes, such as flushing, and the gallons sold to customers from the total gallons pumped for the test year. Review of the MORs that the Utility files with the DEP and the Utility's water sales indicates an unaccounted for water value of less than 10 percent. Therefore, there appears to be no EUW to be considered, and at this time staff is recommending that no adjustment be made to operating expenses for chemicals and purchase power due to EUW.

Water Distribution System Used & Useful

Pursuant to Rule 25-30.431, F.A.C., the U&U calculation for the distribution system is based on the average customers during the test year plus a growth allowance, divided by the distribution system capacity. In the last rate case, the Commission found the system to be 90.91 percent U&U based upon a total of 30 customers, including a growth allowance, and a system capacity of 33 customers.[6] During the current test year, approximately 77 customers were present, with a system capacity of 80 due to expansion of the water distribution system since the last SARC. Analysis of the system indicates there has been no growth of the system in the past five years. During staff's site visit, only one vacant lot was identified, therefore, staff recommends it is reasonable to consider the water distribution system 100 percent U&U.

Summary

The Utility's water treatment and distribution systems should be considered 100 percent U&U, and no adjustments should be made for EUW.

[6]Order No. PSC-94-0236-FOF-WU, issued March 3, 1994, in Docket No. 930656-WU, *In re: Application for a staff-assisted rate case in Lake County by W.B.B. Utilities, Inc.*

Issue 3: What is the appropriate average test year rate base for Lake Idlewild?

Recommendation: The appropriate average test year rate base for Lake Idlewild is $52,512. (T. Brown)

Staff Analysis: The appropriate components of the Utility's rate base include utility plant in service, land, contributions-in-aid-of-construction (CIAC), accumulated depreciation, amortization of CIAC, and working capital. Lake Idlewild's net book value was last determined by Order No. PSC-15-0140-PAA-WU in a 2014 certificate transfer docket.[7] Rate base was last established in the Utility's last SARC in 1994.[8] Staff selected the test year ended September 30, 2015, for the instant case. Commission audit staff determined that the Utility's books and records are in compliance with the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA). A summary of each component of rate base and the recommended adjustments are discussed below.

Utility Plant in Service (UPIS)
The Commission approved a UPIS balance of $192,336 in the Utility's 2014 transfer docket. In the current docket, the Utility recorded $192,336 in UPIS. No exceptions to the Utility's UPIS balances were noted in the Lake Idlewild audit. No averaging adjustment is necessary for ratemaking; therefore, staff recommends a UPIS balance of $192,336.

Land and Land Rights
The Commission approved a land balance of $1,905 in the Utility's 2014 transfer docket. Audit staff determined that there has been no activity related to land since this case, therefore, no adjustments are necessary. Staff recommends a land and land rights balance of $1,905.

Non-Used and Useful Plant
As discussed in Issue 2, Lake Idlewild's water treatment plant and distribution system are considered 100 percent U&U. Therefore, a U&U adjustment is not necessary.

Contribution in Aid of Construction (CIAC)
The Utility recorded CIAC balances of $91,720 for water. Commission audit staff found no additions in the test year, and determined that no adjustments are necessary. As such, staff recommends a CIAC balance of $91,720.

Accumulated Depreciation
Lake Idlewild recorded a test year accumulated depreciation balance of $99,717. Staff calculated accumulated depreciation using the prescribed rates set forth in Rule 25-30.140, F.A.C. Staff decreased total accumulated depreciation by $3,091 to reflect an averaging adjustment. As such, staff recommends an accumulated depreciation balance of $96,626.

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[7]Order No. PSC-15-0140-PAA-WU, issued March 23, 2015, in Docket No. 140170-WU, *In re: Application for approval of transfer of Certificate No. 351-W from W.B.B. Utilities, Inc. to Lake Idlewild Utility Company in Lake County.*

[8]Order No. PSC-94-0236-FOF-WU, issued March 3, 1994, in Docket No. 930656-WU, *In re: Application for staff-assisted rate case in Lake County by W.B.B. Utilities, Inc.*

Accumulated Amortization of CIAC

Lake Idlewild recorded an amortization of CIAC balance of $44,231. Staff calculated amortization of CIAC using composite depreciation rates, and determined that no adjustments are necessary. Staff decreased this account by $1,470 to reflect an averaging adjustment. Staff recommends an accumulated amortization of CIAC balance of $42,761.

Working Capital Allowance

Working capital is defined as the investor-supplied funds that are necessary to meet operating expenses of the Utility. Consistent with Rule 25-30.433(2), F.A.C., staff used the one-eighth of the operation and maintenance (O&M) expense formula approach for calculating the working capital allowance. Applying this formula, staff recommends a working capital allowance of $3,856 (based on O&M expense of $30,848/8).

Rate Base Summary

Based on the foregoing, staff recommends that the appropriate average test year rate base is $52,512. Rate base is shown on Schedule No. 1-A. The related adjustments are shown on Schedule No. 1-B.

Issue 4: What is the appropriate return on equity and overall rate of return for Lake Idlewild?

Recommendation: The appropriate return on equity (ROE) is 8.74 percent with a range of 7.74 percent to 9.74 percent. The appropriate overall rate of return is 8.74 percent. (T. Brown)

Staff Analysis: The Utility's capital structure has been reconciled with staff's recommended rate base. Audit staff verified that the Utility has no debt. In addition, audit staff verified that the Utility has not collected customer deposits.

The appropriate ROE is 8.74 percent based upon the Commission-approved leverage formula currently in effect.[9] Staff recommends an ROE of 8.74 percent, with a range of 7.74 percent to 9.74 percent, and an overall rate of return of 8.74 percent. The ROE and overall rate of return are shown on Schedule No. 2.

[9]Order No. PSC-15-0259-PAA-WS, issued July 2, 2015, in Docket No. 150006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

Issue 5: What are the appropriate test year revenues for the Lake Idlewild's water system?

Recommendation: The appropriate test year revenues for Lake Idlewild's water system are $32,466. (Hudson)

Staff Analysis: Lake Idlewild recorded total test year revenues of $32,262. The water revenues included $31,844 of service revenues and $418 of miscellaneous revenues. Based on staff's review of the Utility's billing determinants and the service rates that were in effect during the test year, staff determined test year service revenues should be $32,090. This results in an increase of $246 ($32,090 - $31,844) to service revenues for water.

During the test year, the Utility charged incorrect initial and normal connection charges and unauthorized late payment and Non-Sufficient Funds (NSF) charges. The Utility has provided refunds via credits to customer's accounts to reflect the appropriate connection charges and reimbursements for unauthorized late payment and NSF charges. Since refunds were made, staff recommends no enforcement actions are warranted at this time. Subsequent to the test year, the Commission approved late payment and NSF charges for the Utility.[10] Therefore, staff recommends it is appropriate to include the number of occurrences during the test year for late payments and returned checks. Based on staff's review of the number of miscellaneous service occurrences during the test year and the Utility's approved miscellaneous service charges, staff determined miscellaneous revenues should be $376. This results in a decrease of $42 ($418 - $376) to miscellaneous revenues for water. Based on the above, the appropriate test year revenues for Lake Idlewild's water system are $32,466 ($32,090 + $376).

[10]Order Nos. PSC-16-0084-TRF-WS, issued February 22, 2016, in Docket No. 150260-WS, *In re: Request for approval of late payment charges and return check (NSF) charge and request for approval of amendment to tariff sheets for miscellaneous service charges in Lake County by Brendenwood Waterworks, Inc., Harbor Waterworks, Inc., Lake Idlewild Waterworks, Inc., and Raintree Waterworks, Inc., and in Highlands County by Country Walk Utilities, Inc.*

Issue 6: What is the appropriate amount of total operating expense?

Recommendation: The appropriate amount of operating expense for the Utility is $38,167. (T. Brown)

Staff Analysis: Lake Idlewild recorded operating expense of $40,393 for the test year ended September 30, 2015. The test year O&M expenses have been reviewed, including invoices, canceled checks, and other supporting documentation. Staff has made several adjustments to the Utility's operating expenses as summarized below.

Operation and Maintenance (O&M) Expenses

Salaries and Wages - Officers (603)

The Utility recorded $4,000 in this account for the test year to reflect the president's monthly salary of $333. According to the Utility's 2015 Annual Report, Lake Idlewild's officers also include a vice-president and administrator who do not receive a salary. In addition, the Utility indicated in audit work papers that the president only receives compensation through distribution of retained earnings if there are any net operating profits from operations that are not used for continuing operations or capital improvements. As such, staff recommends salaries and wages – officers expense for the test year of $4,000.

Purchased Power (615)

The Utility recorded purchased power expense of $3,199. Lake Idlewild's actual test year purchased power was $3,199, therefore, no adjustments are necessary. Staff recommends purchased power expense for the test year of $3,199.

Chemicals (618)

The Utility recorded chemicals expense of $936. Lake Idlewild's actual test year chemicals was $936, therefore, no adjustments are necessary. Staff recommends chemicals expense for the test year of $936.

Contractual Services - Accounting (632)

The Utility recorded $1,000 for test year contractual services – accounting expense, for preparation of the Utility's tax return. Lake Idlewild's actual test year accounting expense was $1,000, therefore, no adjustments are necessary. Staff recommends contractual services – accounting expense for the test year of $1,000.

Contractual Services - Legal (633)

The Utility recorded $590 for test year contractual services – legal expense. Lake Idlewild's actual test year legal expense was $590, therefore, no adjustments are necessary. Staff recommends contractual services – legal expense for the test year of $590.

Contractual Services - Other (636)

The Utility recorded $19,073 in this account. Lake Idlewild receives all of its operational and administrative services under a contract with an affiliated company, U.S. Water Services Corporation (USWSC). The Commission previously reviewed and approved expenses related to

the USWSC management services contracts for six of Lake Idlewild's sister utilities.[11] In the four most recent related dockets, the Commission found USWSC's costing and allocation model to be reasonable with the exception of some allocated expenses related to salary overtime, fuel, and vehicle maintenance which were adjusted in those dockets.[12]

USWCS did not include adjustments to Lake Idlewild's USWSC contract to remove salary overtime or fuel and vehicle maintenance expenses. USWSC subsequently determined that Lake Idlewild's actual test year overtime, fuel, and vehicle maintenance expenses were $357 less than the amount allocated in the test year contract.[13] As such, staff decreased this account by $357 to reflect Lake Idlewild's actual test year overtime, fuel, and vehicle maintenance expenses. The adjusted annual contract fee of $18,716 ($19,073 - $357) equals an average of $243 per equivalent residential connection (ERC), which is comparable to the amounts approved by the Commission for Lake Idlewild's sister utilities.

The Utility confirmed that USWSC's current cost model continues to include 1,000 additional projected ERCs.[14] Inclusion of 1,000 potential future ERCs that are expected to be added through growth or acquisitions serves to spread the costs over a larger base and lowers the cost per ERC. Making the adjustments above and including the additional ERCs, Lake Idlewild receives an annual subsidy of approximately $900 from USWSC. In addition to the cost subsidy resulting from USWSC's cost model, staff believes Lake Idlewild is experiencing additional cost savings related to expenses such as chemicals, testing, and miscellaneous expenses that are attributable to economies of scale achieved through operations provided under the USWSC contract.

USWSC and its managers bring considerable management and operator experience and expertise at a comparably reasonable cost. By spreading costs over multiple systems, and adding ERCs to recognize potential future growth, Lake Idlewild's customers are realizing operational and cost benefits that would not be available if the Utility operated on a stand-alone basis. Staff believes the adjusted cost of the USWSC management services contract is reasonable. Therefore, staff recommends contractual services – other expense for the test year of $18,716.

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[11]Order No. PSC-14-0413-PAA-WS, issued August 14, 2014, in Docket No. 130153-WS, *In re: Application for staff-assisted rate case in Highlands County, by L.P. Utilities Corporation c/o LP Waterworks, Inc.*; Order No. PSC-15-0013-PAA-WS, issued January 2, 2015, in Docket No. 130194-WS, *In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.*; Order No. PSC-15-0282-PAA-WS, issued July 8, 2015, in Docket No. 140158-WS, *In re: Application for increase in water/wastewater rates in Highlands County by HC Waterworks, Inc.*; Order No. PSC-15-0329-PAA-WU, issued August 14, 2015, in Docket No. 140186-WU, *In re: Application for staff-assisted rate case in Brevard County by Brevard Waterworks, Inc.*; Order No. PSC-15-0335-PAA-WS, issued August 20, 2015, in Docket No. 140147-WS, *In re: Application for staff-assisted rate case in Sumter County by Jumper Creek Utility Company.* In addition, the Commission approved similar expenses in a vote on June 9, 2016, in Docket No. 150199-WU, *In re: Application for staff-assisted rate case in Lake County by Raintree Waterworks, Inc.* At the time of filing, a PAA Order had not been issued in that docket.

[12]Order Nos. PSC-15-0282-PAA-WS, PSC-15-0329-PAA-WU, and PSC-15-0335-PAA-WS. The Commission again found USWSC's costing and allocation model to be reasonable, with the exception of some allocated expenses related to fuel and vehicle maintenance, in a vote on June 9, 2016, in Docket No. 150199-WU, *In re: Application for staff-assisted rate case in Lake County by Raintree Waterworks, Inc.* At the time of filing, a PAA Order had not been issued in that docket.

[13]Document No. 02798-16, filed on May 6, 2016, in Docket No. 150236-WU.

[14]Document No. 02798-16.

Insurance Expense (655)

The Utility recorded $1,341 in this account for test year insurance expense. Lake Idlewild's actual test year accounting expense was $1,341, therefore, no adjustments are necessary. The Utility provided a copy of the general liability policy as support documentation for this amount. Staff recommends insurance expense for the test year of $1,341.

Regulatory Commission Expense (665)

The Utility recorded $214 in this account. Regarding the instant case, the Utility is required by Rule 25-22.0407, F.A.C., to provide notices of the customer meeting and notices of final rates in this case to its customers. For noticing, staff estimated $75 for postage expense, $46 for printing expense, and $8 for envelopes. This results in $129 for the noticing requirement. The Utility paid a $200 rate case filing fee. The Utility also requested additional rate case expense of $500 to cover travel expenses for two Utility representatives to attend both the customer meeting and Commission Conference ($250 each trip).[15] On June 10, 2016, the Utility filed updated rate case expense for one employee to attend each event.[16] The Utility provided a hotel receipt for $149 to attend the customer meeting and a reservation confirmation showing estimated charges of $110 to attend the Commission Conference. Based on staff's review, the updated travel expense of $259 ($149 + $110) appears reasonable. Pursuant to Section 367.0816, F.S., rate case expense is amortized over a four-year period. Based on the above, staff recommends total rate case expense of $588 ($129 + $200 + $259), which amortized over four years is $147. Based on the above, staff's total adjustment to this account is a decrease of $67 ($214 - $147). Therefore, staff recommends regulatory commission expense of $147.

Bad Debt Expense (670)

The Utility recorded $283 in this account for test year bad debt expense, which equals 0.87 percent of the test year revenues or 0.66 percent of staff's recommended revenue requirement. Staff notes that the previous owners did not report any bad debt expense in the annual reports filed with the Commission. While current Commission practice is to calculate bad debt expense using a three-year average, three years of records are not yet available for the current owners. As such, staff believes the Utility's recorded bad debt expense is reasonable and representative of the Utility's expected bad debt expense going forward. Therefore, staff recommends bad debt expense for the test year of $283.

Miscellaneous Expense (675)

The Utility recorded $572 for miscellaneous expense. Audit staff determined that the actual balance on September 30, 2015, was $711. According to the Lake Idlewild audit report, this amount was overstated by $75. As such, staff recommends miscellaneous expense of $636 ($711 - $75) for the test year.

[15]The Commission previously approved rate case related travel expenses ranging from $450 to $1,570 in the four most recent dockets for Lake Idlewild's sister utilities. See Docket Nos. 140158-WS, 140147-WS, 140186-WU, and 150199-WU.

[16]Document No. 03513-16, filed on June 10, 2016, in Docket No. 150236-WU.

Operation and Maintenance Expense (O&M Summary)
Based on the adjustments above, O&M expense should be reduced by $499, resulting in total O&M expense of $30,848. Staff's recommended adjustments to O&M expense are shown on Schedule Nos. 3-A, 3-B, and 3-C.

Depreciation Expense (Net of Amortization of CIAC)
The Utility's records reflect test year depreciation of $6,182 and CIAC amortization of $2,940, for a net depreciation expense of $3,242 ($6,182 - $2,940 = $3,242). Staff calculated depreciation expense using the prescribed rates set forth in Rule 25-30.140, F.A.C., and calculated CIAC amortization based on composite rates. Staff believes that no adjustments are necessary. Therefore, staff recommends net depreciation expense of $3,242.

Taxes Other Than Income (TOTI)
Lake Idlewild recorded taxes other than income (TOTI) of $5,804 for the test year. The Utility recorded $1,569 for regulatory assessment fees (RAFs). Based on staff's recommended test year revenues of $32,466 the Utility's RAFs should be $1,461. Therefore, staff decreased this account by $108 to reflect the appropriate RAFs. Also, the Utility recorded property tax accruals of $4,235 during the test year. Audit staff determined that the Utility's actual property taxes for the 2014 tax year were $2,389. However, subsequent to the audit, the 2015 property tax records became available, indicating that Lake Idlewild paid lower property taxes of $2,153 for the 2015 tax year. Based on the 2015 property taxes, staff decreased this account by $2,082 to reflect the appropriate property taxes going forward ($4,235 - $2,153 = $2,082). Staff's total adjustment to test year TOTI is a decrease of $2,190 ($108 + $2,082 = $2,190).

In addition, as discussed in Issue 7, revenues have been increased by $10,291 to reflect the change in revenue required to cover expenses and allow the recommended rate of return. As a result, TOTI should be increased by $463 to reflect RAFs of 4.5 percent of the change in revenues. Therefore, staff recommends TOTI of $4,077.

Operating Expenses Summary
The application of staff's recommended adjustments to Lake Idlewild's test year operating expenses result in operating expenses of $38,167. Operating expenses are shown on Schedule No. 3-A. The adjustments are shown on Schedule No. 3-B.

Issue 7: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is $42,757, resulting in an annual increase of $10,291 (31.70 percent). (T. Brown)

Staff Analysis: Lake Idlewild should be allowed an annual increase of $10,291 (31.70 percent). This will allow the Utility the opportunity to recover its expenses and earn an 8.74 percent return on its investment. The calculations are shown below in Table 7-1.

Table 7-1
Water Revenue Requirement

Adjusted Rate Base	$52,512
Rate of Return	x 8.74%
Return on Rate Base	$4,590
Adjusted O&M Expense	30,848
Depreciation Expense (Net)	3,242
Taxes Other Than Income	4,077
Income Taxes	0
Revenue Requirement	$42,757
Less Adjusted Test Year Revenues	32,466
Annual Increase	$10,291
Percent Increase	31.70%

Issue 8: What are the appropriate rate structures and rates for Lake Idlewild's water system?

Recommendation: The recommended rate structure and monthly water rates are shown on Schedule No. 4. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Hudson)

Staff Analysis: Lake Idlewild is located in Lake County within the St. John's River Water Management District (SJRWMD). The Utility provides water service to approximately 77 residential customers. The Utility has no general service customers. Approximately 4 percent of the residential customer bills during the test year had zero gallons indicating a non-seasonal customer base. The average residential water demand is 16,854 gallons per month. The Utility's current water system rate structure for residential customers consists of a Base Facility Charge (BFC) and a uniform gallonage charge. There is no current rate structure for general service customers.

Staff performed an analysis of the Utility's billing data in order to evaluate the appropriate rate structure for the residential water customers. The goal of the evaluation was to select the rate design parameters that: (1) produce the recommended revenue requirement; (2) equitably distribute cost recovery among the Utility's customers; (3) establish the appropriate non-discretionary usage threshold for restricting repression; and (4) implement, where appropriate, water conserving rate structures consistent with Commission practice.

Due to the average residential water demand of 16,854 gallons, staff recommends 31.50 percent of the revenue requirement should be recovered through the BFC in order to design gallonage charges that send the appropriate pricing signals for conservation and maintain revenue stability. In addition, the average people per household served by the water system is two; therefore, based on the number of persons per household, 50 gallons per day per person, and the number of days per month, the non-discretionary usage threshold should be 3,000 gallons per month. Staff recommends a traditional BFC and gallonage charge rate structure with separate gallonage charges for discretionary and non-discretionary usage for residential water customers. Although the Utility does not have customers for general service, irrigation service, and private fire protection, the Utility would like to establish and maintain rates for those customer classes. Staff recommends a BFC and uniform gallonage charge rate structure for general and irrigation services. The private fire protection rate should be one-twelfth of the approved BFC pursuant to Rule 25-30.465, F.A.C.

Further, based on the recommended revenue increase of approximately 32 percent, the residential consumption can be expected to decline by 1,924,000 gallons resulting in anticipated average residential demand of 14,533 gallons per month. Staff recommends a 13.8 percent reduction in total test year residential gallons for rate setting purposes and corresponding reductions of $441 for purchased power, $129 for chemical expense, and $27 for RAFs to reflect the anticipated repression. These adjustments result in a post repression revenue requirement of $41,785. Table

8-1 below, contains staff's recommended rate structure and two alternative rate structures at other BFC allocations.

Table 8-1
Staff's Recommended and Alternative Water Rate Structures and Rates

	RATES AT TIME OF FILING	STAFF RECOMMENDED RATES (31.50% BFC)	ALTERNATIVE I (25% BFC)	ALTERNATIVE II (40% BFC)
Residential				
5/8" x 3/4" Meter Size	$12.08	$15.88	$12.59	$20.19
Charge per 1,000 gallons				
All gallons	$1.58			
0-3,000 gallons		$2.08	$2.27	$1.82
Over 3,000 gallons		$2.44	$2.72	$2.10
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
3,000 Gallons	$16.82	$22.12	$19.40	$25.65
10,000 Gallons	$27.88	$39.20	$38.44	$40.35
16,000 Gallons	$37.36	$53.84	$54.76	$52.95

Source: Current tariff and staff's calculations

The recommended rate structure and monthly water rates are shown on Schedule No. 4. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 9: What is the appropriate amount by which rates should be reduced in four years after the published effective date to reflect the removal of the amortized rate case expense?

Recommendation: The water rates should be reduced as shown on Schedule No. 4, to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If Lake Idlewild files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Hudson, T. Brown)

Staff Analysis: Section 367.0816, F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense, the associated return on working capital, and the gross-up for RAFs which is $156. Using the Utility's current revenues, expenses, and customer base, the reduction in revenues will result in the rate decrease shown on Schedule No. 4.

Lake Idlewild should be required to file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The Utility also should be required to file a proposed customer notice setting forth the lower rates and the reason for the reduction. If Lake Idlewild files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Issue 10: What are the appropriate initial customer deposits for Lake Idlewild's water service?

Recommendation: The appropriate water initial customer deposit should be $101 for the residential 5/8 inch x 3/4 inch meter size. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for water service. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C. (Hudson)

Staff Analysis: Rule 25-30.311, F.A.C., contains the criteria for collecting, administering, and refunding customer deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the Utility and, ultimately, the general body of ratepayers. Historically, the Commission has set initial customer deposits equal to two times the average estimated bill.[17] Currently, the Utility does not have initial customer deposits. Based on the staff recommended water rates and the post repression average residential demand, the appropriate initial customer deposit should be $101 for water to reflect an average residential customer bill for two months.

Staff recommends that the appropriate water initial customer deposit should be $101 for the residential 5/8 inch x 3/4 inch meter size. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for water service. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C.

[17]Order Nos. PSC-13-0611-PAA-WS, issued November 19, 2013, in Docket No. 130010-WS, *In re: Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC.*, and PSC-14-0016-TRF-WU, issued January 6, 2014, in Docket No. 130251-WU, *In re: Application for approval of miscellaneous service charges in Pasco County, by Crestridge Utility Corporation.*

Issue 11: Should the recommended rates be approved for Lake Idlewild on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility?

Recommendation: Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. Prior to implementation of any temporary rates, the Utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Office of Commission Clerk no later than the 20th of every month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund. (T. Brown)

Staff Analysis: This recommendation proposes an increase in rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, pursuant to Section 367.0814(7), F.S., in the event of a protest filed by a party other than the Utility, staff recommends that the recommended rates be approved as temporary rates. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. The recommended rates collected by the Utility should be subject to the refund provisions discussed below.

The Utility should be authorized to collect the temporary rates upon staff's approval of an appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of $6,860. Alternatively, the Utility could establish an escrow agreement with an independent financial institution.

If the Utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

1. The Commission approves the rate increase; or,
2. If the Commission denies the increase, the Utility shall refund the amount collected that is attributable to the increase.

If the Utility chooses a letter of credit as a security, it should contain the following conditions:

1. The letter of credit is irrevocable for the period it is in effect; and
2. The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

1. The Commission Clerk, or his or her designee, must be a signatory to the escrow agreement.
2. No monies in the escrow account may be withdrawn by the Utility without the prior written authorization of the Commission Clerk, or his or her designee.
3. The escrow account shall be an interest bearing account.
4. If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
5. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility.
6. All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
7. The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
8. This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.
9. The account must specify by whom and on whose behalf such monies were paid.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the Utility. Irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase should be maintained by the Utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The Utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Office of Commission Clerk no later than the 20th of every month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 12: Should Lake Idlewild be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision?

Recommendation: Yes. The Utility should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. Lake Idlewild should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA primary accounts as shown on Schedule No. 5 have been made to the Utility's books and records. In the event the Utility needs additional time to complete the adjustments, notice should be provided within seven days prior to the deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days. (T. Brown)

Staff Analysis: The Utility should be required to notify the Commission, in writing that it has adjusted its books in accordance with the Commission's decision. Schedule No. 5 reflects the accumulated plant, depreciation, CIAC, and amortization of CIAC balances as of September 30, 2015. Lake Idlewild should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA primary accounts, as shown on Schedule No. 5, have been made to the Utility's books and records. In the event the Utility needs additional time to complete the adjustments, notice should be provided within seven days prior to the deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days.

Issue 13: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively. (Murphy)

Staff Analysis: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively.

LAKE IDLEWILD UTILITY COMPANY TEST YEAR ENDED 09/30/15 SCHEDULE OF WATER RATE BASE			SCHEDULE NO. 1-A DOCKET NO. 150236-WU
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUSTMENTS TO UTIL. BAL.	BALANCE PER STAFF
UTILITY PLANT IN SERVICE	$192,336	$0	$192,336
LAND & LAND RIGHTS	1,905	0	1,905
NON-USED AND USEFUL COMPONENTS	0	0	0
CIAC	(91,720)	0	(91,720)
ACCUMULATED DEPRECIATION	(99,717)	3,091	(96,626)
AMORTIZATION OF CIAC	44,231	(1,470)	42,761
WORKING CAPITAL ALLOWANCE	0	3,856	3,856
WATER RATE BASE	$47,035	$5,477	$52,512

LAKE IDLEWILD UTILITY COMPANY TEST YEAR ENDED 09/30/15 ADJUSTMENTS TO RATE BASE	SCHEDULE NO. 1-B DOCKET NO. 150236-WU
	WATER
ACCUMULATED DEPRECIATION	
To reflect an averaging adjustment.	$3,091
AMORTIZATION OF CIAC	
To reflect an averaging adjustment.	($1,470)
WORKING CAPITAL ALLOWANCE	
To reflect 1/8 of test year O & M expenses.	$3,856

LAKE IDLEWILD UTILITY COMPANY
TEST YEAR ENDED 09/30/15
SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE NO. 2
DOCKET NO. 150236-WU

	CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUST-MENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUST-MENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
1.	COMMON STOCK	$0	$0	$0					
2.	RETAINED EARNINGS	0	0	0					
3.	PAID IN CAPITAL	0	0	0					
4.	OTHER COMMON EQUITY	54,528	(1,990)	52,538					
	TOTAL COMMON EQUITY	$54,528	($1,990)	$52,538	($26)	$52,512	100.00%	8.74%	8.74%
5.	LONG TERM DEBT	$0	$0	$0	$0	$0	0.00%	0.00%	0.00%
6.	SHORT-TERM DEBT	0	0	0	0	0	0.00%	0.00%	0.00%
7.	PREFERRED STOCK	0	0	0	0	0	0.00%	0.00%	0.00%
	TOTAL LONG TERM DEBT	$0	$0	$0	$0	$0	0.00%		
8.	CUSTOMER DEPOSITS	$0	$0	$0	$0	$0	0.00%	2.00%	0.00%
9.	TOTAL	$54,528	($1,990)	$52,538	($26)	$52,512	100.00%		8.74%

RANGE OF REASONABLENESS	LOW	HIGH
RETURN ON EQUITY	7.74%	9.74%
OVERALL RATE OF RETURN	7.74%	9.74%

LAKE IDLEWILD UTILITY COMPANY
TEST YEAR ENDED 09/30/15
SCHEDULE OF WATER OPERATING INCOME

SCHEDULE NO. 3-A
DOCKET NO. 150236-WU

		TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1.	**OPERATING REVENUES**	$32,262	$204	$32,466	$10,291 31.70%	$42,757
	OPERATING EXPENSES:					
2.	OPERATION & MAINTENANCE	$31,347	($499)	$30,848	$0	$30,848
3.	DEPRECIATION (NET)	6,182	0	6,182	0	6,182
4.	AMORTIZATION	(2,940)	0	(2,940)	0	(2,940)
5.	TAXES OTHER THAN INCOME	5,804	(2,190)	3,614	463	4,077
6.	INCOME TAXES	0	0	0	0	0
7.	**TOTAL OPERATING EXPENSES**	$40,393	($2,689)	$37,704	$463	$38,167
8.	**OPERATING INCOME/(LOSS)**	($8,131)		($5,238)		$4,590
9.	**WATER RATE BASE**	$47,035		$52,512		$52,512
10.	**RATE OF RETURN**	-17.29%		-9.98%		8.74%

	LAKE IDLEWILD UTILITY COMPANY TEST YEAR ENDED 09/30/15 ADJUSTMENTS TO OPERATING INCOME	SCHEDULE NO. 3-B DOCKET NO. 150236-WU
		WATER
	OPERATING REVENUES	
1.	To reflect the appropriate test year services revenues.	$246
2.	To reflect the appropriate test year miscellaneous service revenues.	(42)
	Subtotal	$204
	OPERATION AND MAINTENANCE EXPENSES	
1.	Contractual Services - Other (636)	
	To reflect appropriate fuel and vehicle maintenance expense.	($357)
2.	Regulatory Commission Expense (665)	
	To reflect 4-year amortization of rate case expense.	($67)
3.	Miscellaneous Expense (675)	
	To reflect appropriate miscellaneous expense per audit.	($75)
	TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	($499)
	TAXES OTHER THAN INCOME	
1.	To reflect appropriate test year RAFs.	($108)
2.	To reflect appropriate utility property taxes.	(2,082)
	Total	($2,190)

LAKE IDLEWILD UTILITY COMPANY TEST YEAR ENDED 09/30/15 ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE			SCHEDULE NO. 3-C DOCKET NO. 150236-WU
	TOTAL PER UTILITY	STAFF ADJUST-MENT	TOTAL PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	$0	$0	$0
(603) SALARIES AND WAGES - OFFICERS	4,000	0	4,000
(604) EMPLOYEE PENSIONS AND BENEFITS	0	0	0
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	3,199	0	3,199
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	936	0	936
(620) MATERIALS AND SUPPLIES	0	0	0
(630) CONTRACTUAL SERVICES - BILLING	0	0	0
(632) CONTRACTUAL SERVICES - ACCT.	1,000	0	1,000
(633) CONTRACTUAL SERVICES - LEGAL	590	0	590
(636) CONTRACTUAL SERVICES - OTHER	19,073	(357)	18,716
(640) RENTS	0	0	0
(650) TRANSPORTATION EXPENSE	0	0	0
(655) INSURANCE EXPENSE	1,341	0	1,341
(665) REGULATORY COMMISSION EXPENSE	214	(67)	147
(670) BAD DEBT EXPENSE	283	0	283
(675) MISCELLANEOUS EXPENSE	711	(75)	636
	$31,347	($499)	$30,848

LAKE IDLEWILD UTILITY COMPANY TEST YEAR ENDED 09/30/2015 MONTHLY WATER RATES			SCHEDULE NO. 4 DOCKET NO. 150236-WU
	UTILITY CURRENT RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
Residential, General Service, and Irrigation*			
Base Facility Charge by Meter Size			
5/8"X3/4"	$12.08	$15.88	$0.06
3/4"	$18.13	$23.82	$0.09
1"	$30.21	$39.70	$0.15
1-1/2"	$60.41	$79.40	$0.29
2"	$96.66	$127.04	$0.47
3"	$181.24	$254.08	$0.94
4"	$302.07	$397.00	$1.47
6"	$604.15	$794.00	$2.94
Charge per 1,000 gallons - Residential and Irrigation			
All gallons	$1.58		
0 - 3,000 gallons		$2.08	$0.01
Over 3,000 gallons		$2.44	$0.01
Charge per 1,000 gallons - General Service	N/A	$2.38	$0.01
Private Fire Protection			
2"	N/A	$10.59	$0.04
3"	N/A	$21.17	$0.08
4"	N/A	$33.08	$0.12
6"	N/A	$66.17	$0.24
8"	N/A	$105.87	$0.39
10"	N/A	$152.18	$0.56
Typical Residential 5/8" x 3/4" Meter Bill Comparison			
3,000 Gallons	$16.82	$22.12	
10,000 Gallons	$27.88	$39.20	
16,000 Gallons	$37.36	$53.84	

*Currently, the utility does not have rates for general and irrigation services.

LAKE IDLEWILD UTILITY COMPANY — **SCHEDULE NO. 5**
TEST YEAR ENDED 9/30/2015 — **DOCKET NO. 150236-WU**
SCHEDULE OF WATER PLANT, DEPRECIATION, CIAC, & CIAC AMORTIZATION BALANCES

ACCT. NO.	DEPR. RATE PER RULE 25-30.140	DESCRIPTION	UPIS 9/30/2015 (DEBIT)	ACCUM. DEPR. 9/30/2015 (CREDIT)
303	0.00%	LAND AND LAND RIGHTS (NON-DEPRECIBLE)	$1,905	$0
304	3.70%	STRUCTURES AND IMPROVEMENTS	5,642	857
307	3.70%	WELLS AND SPRINGS	19,011	12,301
309	3.13%	SUPPLY MAINS	15,793	5,883
310	5.88%	POWER GENERATION EQUIPMENT	3,038	3,378
311	5.88%	PUMPING EQUIPMENT	20,285	15,178
320	5.88%	WATER TREATMENT EQUIPMENT	20,337	14,874
330	3.03%	DISTRIBUTION RESERVOIRS AND STANDPIPES	32,468	969
331	2.63%	TRANSMISSION AND DISTRIBUTION MAINS	57,238	27,864
333	2.86%	SERVICES	44	40
334	5.88%	METERS AND METER INSTALLATIONS	9,020	10,376
335	2.50%	HYDRANTS	9,460	4,906
		TOTAL INCLUDING LAND	**$194,241**	**$96,626**

	CIAC AMORT. 9/30/2015 (DEBIT)	CIAC 9/30/2015 (CREDIT)
	$42,761	**$91,720**

Item 9

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Ollila) S.O.
Division of Engineering (Ellis, Wooten) POE
Office of the General Counsel (Brownless) SML

RE: Docket No. 160093-EI – Petition for approval of modifications to standby generation tariff and program participation standards, by Duke Energy Florida, LLC.

AGENDA: 07/07/16 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 60-Day Suspension Date Waived by the Company Until the 7/7/16 Agenda Conference

SPECIAL INSTRUCTIONS: None

Case Background

On April 19, 2016, Duke Energy Florida, LLC (Duke) filed a petition for approval of modifications to its standby generation program tariff and program participation standards (program standards).

The standby generation program is one of several commercial/industrial programs the Commission approved in 2015 as part of Duke's Demand Side Management (DSM) plan and associated tariffs.[1] The standby generation program is designed to reduce Duke's peak demand based on control of customer equipment. The program is voluntary and is available to all

[1] Order No. PSC-15-0332-PAA-EG, issued August 20, 2015, in Docket No. 150083-EG, *In re: Petition for approval of demand-side management plan of Duke Energy Florida, Inc.*

commercial and industrial customers that have on-site generation capability and are willing to reduce their Duke demand when required by initiating their own generation. The program is offered through rate schedule GSLM-2, and provides monthly credits based on the participants' ability to reduce demand.

Based on Environmental Protection Agency (EPA) regulations regarding emission standards for standby generation equipment in effect in 2015, Duke's standby generation program was split into two options: Schedule A (emergency standby generation) and Schedule B (non-emergency standby generation). Schedule A was open to customers whose standby generation equipment was not compliant with EPA regulations, but could be dispatched by Duke up to 100 hours during emergency situations (i.e., severe capacity constraints on Duke's system). Schedule B was open only to those customers whose equipment was compliant with EPA regulations and could be dispatched by Duke any time.

Effective May 1, 2016, revised EPA regulations require owners of generators to comply with new emission standards for hazardous air pollutants. Therefore, customers with standby generation equipment that is not compliant with EPA regulations face more restrictions on operation, which limits the ability of Duke to dispatch them as necessary.[2] Duke's proposed tariff modifications update the tariff to conform with the revised EPA regulations and allow non-compliant (i.e., Schedule A) customers to remain on the tariff until December 31, 2016, so that those customers have time to bring their generation equipment into compliance.

Duke's original April 19, 2016 proposed tariff revisions reference specific EPA rules with which customers with standby generation must comply. On May 11, 2016, Duke filed revised tariff pages that substituted generic language for the technical language used in the original filing.[3] On May 13, 2016, Duke filed revised program standards consistent with the revised tariff pages filed on May 11, 2016. Attachment 1 contains the May 11 proposed tariff. Exhibit D to the petition contains a sample copy of the letter Duke sent to its standby generation customers. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes.

[2] Equipment owners remain responsible for ensuring that standby generators participating in Duke's tariff program are compliant with EPA rules, not Duke.
[3] The use of generic language is similar to, for example, what Tampa Electric Company uses in its standby tariff.

Discussion of Issues

Issue 1: Should the Commission approve Duke's proposed modifications to its standby generation tariff and program standards effective December 31, 2016, and allow Schedule A customers to remain on the tariff until December 31, 2016, to bring their generation equipment into compliance with the revised EPA rules?

Recommendation: Yes, staff recommends that the Commission approve Duke's proposed modifications to its standby generation tariff and program standards effective December 31, 2016, and allow current Schedule A customers to remain on the tariff until December 31, 2016, to bring their generation equipment into compliance with the revised EPA rules. (Ollila, Wooten)

Staff Analysis: Duke's proposed modifications update its standby tariff and program participation standards to conform with current EPA regulations. Customers with standby generation include grocery stores and hospitals. Duke currently has 288 customers on the standby tariff.

Duke's original proposed modifications contained language specific to the applicable federal regulation. In the May 11 revisions, Duke removed language referring to specific EPA requirements and replaced it with generic terms, i.e., applicable federal, state, and local codes and rules. The revision also includes language stating that customers are responsible for ensuring that equipment remains compliant with all applicable federal, state, and local codes and rules.

Beginning in April 2016, Duke contacted its standby customers by letter, email, telephone calls, and face-to-face meetings to explain the EPA rule changes and Duke's proposals. The letter explained the rule changes and the customers' options. The letter asked that the customer provide Duke with notice of whether or not the customer's equipment is compliant by May 31, 2016. If the equipment is not compliant, the letter asked if the customer intends to upgrade its equipment, and if yes, asked the customer to attest to that compliance prior to December 31, 2016. For customers who are not compliant, Duke proposes that they be given until December 31, 2016 to comply. Duke reported that as of June 15, 2016, 141 of the 288 customers participating in the standby program comply with current EPA regulations, 10 are not compliant but intend to upgrade, 15 are non-compliant and do not intend to upgrade, and 122 responses are pending.

Customers who are not compliant by December 31, 2016 will be removed from the standby generation tariff. Customers will need to provide certification that their generation equipment is compliant with all applicable federal, state, and local codes and rules in order to continue participation in the standby generation program and tariff.

All customers are credited a monthly amount based on their standby generator rating (capacity) as well as an amount when the standby generator is used. Customers who do not certify that their equipment is compliant will continue to be credited the monthly amount based on their standby generator rating until they are removed from the tariff effective December 31, 2016.

Schedule A customers who certify that their equipment is compliant will receive an increase in the per kilowatt hour (kWh) credit from $0.05 to the Schedule B credit of $0.50 per kWh. Providing a greater credit per kWh, according to Duke, serves as an incentive for Schedule A

customers to become compliant, which in turn provides Duke with more flexibility in its use of standby generation.

The only change to the current program standards is in Section 3, which was made to be consistent with the tariff language.

Conclusion

Staff believes that current regulations necessitate Duke's tariff modification and that Duke's more generic wording is reasonable and likely to promote efficiency by requiring fewer tariff changes in the future. The proposed change to the program participation standards comports with the tariff modifications. Staff believes it is reasonable to give customers who are not compliant an opportunity to upgrade their equipment in order to become compliant and that Duke's proposed effective date for customers to become compliant is also reasonable.

Staff recommends that the Commission approve Duke's proposed modifications to its standby generation tariff and program standards effective December 31, 2016, and allow current Schedule A customers to remain on the tariff until December 31, 2016, to bring their generation equipment into compliance with the revised EPA rules.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved and no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Brownless)

Staff Analysis: If Issue 1 is approved and no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DUKE ENERGY

SECTION NO. VI
NINTH REVISED SHEET NO. 6.225
CANCELS EIGHTH REVISED SHEET NO. 6.225

RATE SCHEDULE GSLM-2
GENERAL SERVICE LOAD MANAGEMENT – STANDBY GENERATION

Availability:

Available only within the range of the Company's radio switch communications capability.

Applicable:

To customers who are eligible for service under Rate Schedules GS-1, GST-1, GSD-1, or GSDT-1 who have standby generation that will allow facility demand reduction at the request of the Company. The customer's Standby Generation Capacity calculation must be at least 50 kW in order to remain eligible for the rate. Customers cannot be on this rate schedule and also the General Service Load Management (GSLM-1) rate schedule. Not applicable to Net Metering customers. Customers cannot use the standby generation for peak shaving. Available only to those customers whose standby generation equipment is compliant with all applicable federal, state, and local codes and rules.

Limitation of Service:

Operation of the customer's equipment will occur at the Company's request. Requests by the Company for the customer to reduce facility demand by operation of their standby generation can occur at any time. Power to the facility from the Company will normally remain as back up power for the standby generation. The Customer will be given fifteen (15) minutes to initiate the demand reduction before the capacity calculation (see Definitions) is impacted.

Standby or resale service not permitted hereunder. Service under this rate is subject to the Company's currently effective and filed "General Rules and Regulations for Electric Service."

Rate Per Month:

The rates and all other terms and conditions of Company Rate Schedules GS-1, GST-1, GSD-1 or GSDT-1 (whichever shall otherwise be applicable) shall be applicable to service under this rate schedule, subject to the following:

GSLM-2 MONTHLY CREDIT AMOUNT
STANDBY GENERATION

Credit	Cumulative Fiscal Year Hours
$4.50 x C + $0.50 x kWh monthly	All CRH

Immediately upon going on the rate, the customer's Capacity (C) is set to a value equivalent to the load the customer's standby generator carries during testing observed by the Customer and a Company representative. The C will remain at that value until the equipment is requested to run by the Company. The C for that month and subsequent months will be a calculated value based upon the following formula:

$$C = \frac{\text{kWh annual}}{[\text{CAH} - (\text{\# of Requests} \times \text{¼ hour})]}$$

Definitions:

kWh annual = Actual measured kWh generated by the standby generator during the previous twelve (12) months during Company control periods (rolling total).

CAH = Cumulative hours requested by the Company for the standby generation to operate for the previous twelve (12) months (rolling total).

CRH = Cumulative standby generator running hours during request periods of the Company for the current fiscal year (the fiscal year begins on the month the customer goes on the GSLM-2 rate).

\# of Requests = The cumulative number of times the Company has requested the standby generation to be operated for the previous twelve (12) months (rolling total).

kWh monthly = Actual measured kWh generated by the standby generator for the current month during Company control periods.

(Continued on Page No. 2)

ISSUED BY: Javier J. Portuondo, Director Rates & Regulatory Strategy – FL

EFFECTIVE: December 31, 2016

DUKE ENERGY

SECTION NO. VI
FOURTH REVISED SHEET NO. 6.226
CANCELS THIRD REVISED SHEET NO. 6.226

RATE SCHEDULE GSLM-2
GENERAL SERVICE LOAD MANAGEMENT – STANDBY GENERATION
(Continued from Page No. 1)

This $ per kWh rate represents an incentive credit to support Customer O&M associated with run time requested by the Company.

DEF will periodically review this incentive rate and request changes as deemed appropriate.

Special Provisions:

1. The Company shall be allowed reasonable access to the customer's premises to install, maintain, inspect, test and remove the equipment associated with this rate.
2. Prior to the installation of the equipment, the Company may inspect the customer's electrical equipment (including standby generator) to ensure good repair and working condition, but the Company shall not be responsible for the repair or maintenance of the electrical equipment (including standby generator). The Company may, at its option, require a commercial energy audit as a prerequisite to receiving service under this rate. The audit may be used to establish or confirm equipment capacity, operating hours, or to determine the ability of the Company to control electric demand.
3. Prior to installation of the equipment, the customer must provide the Company with documentation certifying customer's generation equipment is compliant with all applicable federal, state, and local codes and rules.
4. Customers are responsible for ensuring that equipment remains compliant with all applicable federal, state, and local codes and rules.
5. If the Company determines that the equipment installed as part of this rate by the Company has been tampered with, the Company may discontinue service under this rate and bill the customer for prior credits received under this rate for that fiscal year.

ISSUED BY: Javier J. Portuondo, Director Rates & Regulatory Strategy - FL
EFFECTIVE: December 31, 2015

Item 10

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Rome, Draper)
Office of the General Counsel (Mapp)

RE: Docket No. 160033-GU – Petition for limited proceeding to restructure rates by St. Joe Natural Gas Company, Inc.

AGENDA: 07/07/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: 07/07/16 (Waiver of 60-day tariff clock to 07/07/16)

SPECIAL INSTRUCTIONS: None

Case Background

On February 12, 2016, St. Joe Natural Gas Company, Inc. (St. Joe) filed a request for approval to restructure its rates to address a shortfall in revenues due to the permanent loss of its largest and only industrial customer, the Arizona Chemical Company. St. Joe is a gas utility subject to the regulatory jurisdiction of the Commission pursuant to Section 366.06, Florida Statutes (F.S.).

St. Joe filed its petition as a request for a limited proceeding pursuant to Section 366.076, F.S., and Commission Rule 25-7.0391, Florida Administrative Code (F.A.C.), and requested that the petition be processed using the Commission's proposed agency action procedure pursuant to subsection 366.06(4), F.S. On March 10, 2016, St. Joe agreed to waive the 60-day statutory file and suspend date for the proposed tariff revisions submitted with its petition pursuant to subsection 366.06(3), F.S.

The Commission has approved rate restructurings for gas utilities in limited proceedings filed using the proposed agency action procedure on prior occasions. In 1987, the Commission approved the reallocation of West Florida Natural Gas Company's revenue shortfall resulting from reduced sales to interruptible industrial customers.[1] In 2002, the Commission approved Indiantown Gas Company's rate restructuring to more closely align the rates of customers with the costs to serve them, and to help ensure the retention of load associated with two large industrial customers.[2]

The Commission approved St. Joe's current rates in 2008.[3] In the instant petition, St. Joe is not requesting any changes to the total revenue requirement, operating expenses, rate base, or cost of capital that were approved in the 2008 rate case proceeding. Rather, St. Joe seeks only to have its rates restructured so that it will be able to achieve the revenues that were authorized in that proceeding. Specifically, St. Joe requests to reallocate the $285,011 annual revenue deficiency sustained from the loss of Arizona Chemical Company (Arizona) to the remaining customer classes according to the ratio that each class's revenues had to total revenues authorized in the 2008 rate case, minus Arizona's revenue contribution.

During its evaluation of the petition, staff issued a data request to St. Joe for which a response was received on March 24, 2016. On April 11, 2016, staff convened a customer meeting in Port St. Joe to hear and respond to customer testimony and questions related to the utility's petition. Three customers provided comments at the customer meeting. The Commission has jurisdiction over this matter pursuant to Section 366.06, F.S.

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[1] Order No. 17664, issued June 5, 1987, in Docket No. 870277-GU, *In re: Petition of West Florida Natural Gas Company for a limited proceeding to restructure rates.* West Florida Natural Gas Company merged with Tampa Electric Company d/b/a Peoples Gas System in 1997. See Order No. PSC-97-1530-FOF-GU, issued December 8, 1997, in Docket No. 971134-GU, *In re: Request for acknowledgment of change in name from West Florida Natural Gas Company to Tampa Electric Company d/b/a Peoples Gas System, due to June 30, 1997 merger of West Florida with Tampa Electric Company.*

[2] Order No. PSC-02-1666-PAA-GU, issued November 26, 2002, in Docket No. 020470-GU, *In re: Request for limited proceeding by Indiantown Gas Company for approval of Natural Gas Tariff, Original Volume No. 2, implementing restructured rates.*

[3] Order No. PSC-08-0436-PAA-GU, issued July 8, 2008, in Docket No. 070592-GU, *In re: Petition for rate increase by St. Joe Natural Gas Company, Inc.*

Discussion of Issues

Issue 1: Should the Commission approve St. Joe's request for rate restructuring?

Recommendation: Yes, the Commission should approve St. Joe's request for rate restructuring and the associated rates as shown in Table 1-1 of this recommendation. The restructured rates should become effective for meter readings on or after August 7, 2016. Within 10 days of the Commission's vote, St. Joe should submit revised tariff sheets reflecting the changes to the gas delivery service rates for administrative approval by staff. Pursuant to Rule 25-22.0406(8), F.A.C., customers should be notified of the revised rates in their first bill containing the new rates. St. Joe should submit a copy of the notice to staff for approval prior to its use. If in the future another customer desires to take service under St. Joe's FTS-5 rate schedule, St. Joe should file documentation with the Commission Clerk (in Docket No. 160000-OT) which shows that the tariff rate is adequate to recover the cost to serve the new customer. (Rome, Draper)

Staff Analysis: The proposed revenue neutral restructured rates are intended to recover no more revenues than were approved in St. Joe's 2008 rate case proceeding. St. Joe seeks approval only for revisions to its residential and commercial gas delivery service rates, which recover St. Joe's costs to own and operate its distribution system. Customers also pay a customer charge and a purchased gas adjustment factor which are not affected by this proposal.

Background

St. Joe currently serves approximately 2,954 residential and commercial customers in Port St. Joe, Mexico Beach, Wewahitchka, and unincorporated areas of Gulf County, Florida. In St. Joe's 2008 rate case proceeding, the Commission identified industrial customer Arizona as being potentially at risk regarding its ability to continue operations.[4]

For business reasons outside of St. Joe's control, Arizona closed its operations in 2009. Arizona was the only customer taking service under St. Joe's FTS-5 rate schedule and at the time of the 2008 rate case, Arizona represented approximately 77 percent of St. Joe's gas throughput and 20 percent of its total revenues.[5] Due to the closure of Arizona, St. Joe stated that it no longer has any customers taking service under the FTS-5 rate schedule and has received no revenues from this rate class since 2009. St. Joe stated that as a result of Arizona's closure, it receives annual revenues that are $285,011 less than the revenues approved by the Commission in Order No. PSC-08-0436-PAA-GU.

As a result of general economic conditions since 2008, the number of St. Joe's residential and commercial customers and their therm usage has not changed significantly. During the 2008 rate case, St. Joe provided testimony that a proposed new development (Windmark II) had the potential to lead to new customer growth.[6] However, in response to staff's data request in the instant docket, St. Joe stated that due to the recession, the Windmark II development has been scaled back from approximately 1,500 residential units to a residential subdivision of 130 lots.

[4] Id., p. 14.
[5] Id., pp. 13-14.
[6] Id., p. 6.

St. Joe also stated that to date there are approximately 38 residential homes built in Windmark II, of which 30 are currently natural gas customers of the utility. Finally, St. Joe further stated that it chose to defer seeking rate relief until the instant docket due to the loss of jobs in the community caused by the closing of Arizona and the loss of residential customers' homes as a result of the mortgage crisis.

Comparison of Limited Proceeding versus Standard Rate Case Proceeding

St. Joe asserts that filing the instant petition as a limited proceeding is advantageous because it offers the opportunity for efficient resolution of a rate relief issue that is limited in scope and benefits customers by avoiding the expenses associated with a full and lengthy rate case. The Commission approved $55,003 in rate case expense in St. Joe's last rate case proceeding.[7] In its response to staff's data request, St. Joe stated that it had incurred approximately $10,000 in expenses to date in the instant limited proceeding. However, staff notes that St. Joe is not seeking to recover any costs associated with this filing from its customers. Therefore, St. Joe's assertion that filing the instant petition as a limited proceeding is preferable to a regular rate case filing appears to be reasonable.

Customer Meeting

Staff conducted a customer meeting in Port St. Joe, Florida, on April 11, 2016. Three customers provided comments for the record. The first speaker expressed objections to the increased gas delivery service rates that would result from the proposed rate restructuring; the customer suggested that the proposed increase was inappropriate since returns on bank money market accounts were so low. The customer also suggested that increases to gas rates could cause customers to convert to all-electric homes. The second speaker suggested that St. Joe take a more proactive role to solicit new customers to help in recovering the revenue shortfall from the loss of Arizona. The third speaker suggested that in general the increase appeared to be reasonable when one considered that the last increase was eight years ago. Customers did not state any quality of service complaints. No written comments were received in the docket file.

Evaluation of Proposed Rate Restructuring

To recover the $285,011 annual revenue deficiency caused by the loss of Arizona, St. Joe proposes to reallocate the revenue deficiency to the remaining customer classes according to the ratio that each class's revenues had to total revenues authorized in the 2008 rate case, minus Arizona's revenue contribution. The proposed rate restructuring would result in increases to the gas delivery service rates under residential rate schedules RS-1, RS-2, and RS-3, and commercial rate schedules GS-1, GS-2, GS-4, FTS-1, FTS-2, and FTS-4.[8]

Restructuring Methodology

In schedules provided in support of the current petition, St. Joe established its starting point for the rate restructuring presentation by providing the Commission-approved rate base, revenues, expenses, and rate of return from the 2008 rate case. St. Joe removed the revenues attributable to Arizona and then determined the percentage that each rate schedule comprised of the remaining

[7] Id., pp. 10-11.

[8] The Commission approved the elimination of the GS-3 and FTS-3 rate schedules in Order No. PSC-11-0396-TRF-GU, issued September 21, 2011, in Docket No. 110241-GU, *In re: Petition by St. Joe Natural Gas Company, Inc. to reorganize the applicability of general service rate schedules and eliminate the GS-3 rate schedule.*

system revenues. These percentages then were used to reallocate the annual Arizona-related revenues of $285,011 proportionately among the other rate schedules. To illustrate the calculation for one rate class, in the 2008 rate case the rates for the RS-1 rate schedule were set to provide 18.63 percent of total revenues excluding Arizona. Thus, the RS-1 rate schedule is now allocated $53,099 ($285,011 x 18.63%) of the Arizona-related revenues. The same methodology was used to reallocate the expenses and taxes associated with Arizona proportionately among the other rate schedules; therefore, the proposed post-restructuring rate of return on investment of 5.44 percent is equal to the rate of return approved for St. Joe in the 2008 rate case.

In response to staff's data request, St. Joe confirmed that the total rate base associated with serving Arizona was $7,849 and that this amount was retired from the company's rate base in January 2010; therefore, the company no longer earns a return on that amount. Staff believes that the impact of this retirement on St. Joe's rate base and its rate of return on investment is de minimis. St. Joe further stated that it has not realized any material savings in operation and maintenance costs as a result of no longer serving Arizona. This is due to the close proximity of Arizona's facilities to St. Joe's natural gas main and the fact that St. Joe provided service to Arizona through only three meters with less than 50 feet of dedicated pipeline.

St. Joe also provided schedules in support of its petition indicating that in the absence of rate relief, the utility forecasts that it will have a negative net operating income and negative return on common equity. This assertion is consistent with information provided in St. Joe's Earnings Surveillance Report (ESR) for the twelve months ending December 31, 2015, in which St. Joe reported a net operating income for the year of ($111,647). Staff's calculation of St. Joe's return on common equity based on information provided in the ESR is (11.03) percent.

Customer Impacts

All of St. Joe's residential customers are retail sales customers. Commercial customers may elect either sales or transportation service. Commercial sales customers receive their gas supply directly from St. Joe and take service under the GS rate schedules. Transportation customers arrange for the purchase of the gas through a gas marketer and take service under the FTS rate schedules. The base rate charges are the same for commercial sales and transportation customers. At this time, all of St. Joe's commercial customers are retail sales customers with the exception of one transportation customer that takes service under the FTS-4 rate schedule. A comparison of St. Joe's current and proposed gas delivery service rates is shown in Table 1-1 below. The rates shown in Table 1-1 do not include the cost of the gas itself.

Table 1-1
Comparison of Current and Proposed Delivery Service Rates

Rate Schedule	Annual Usage (Therms)	Current Delivery Rate (Cost per Therm)	Proposed Delivery Rate (Cost per Therm)
RS-1	Less than 150	$0.70441	$1.29614
RS-2	150 – 299	$0.56729	$0.87058
RS-3	300 or more	$0.50381	$0.72859
GS-1/FTS-1	Less than 2,000	$0.43981	$0.66605
GS-2/FTS-2	2,000 – 87,500	$0.31801	$0.42319
GS-4/FTS-4	87,500 – 1,000,000	$0.11749	$0.15840

Source: St. Joe Petition Schedule 5.

The impact to a typical customer bill of the proposed rates is shown for each rate schedule in Table 1-2 below. For all rate schedules shown with the exception of FTS-4, the bills listed include the customer charge, gas delivery service charge, and St. Joe's current gas cost of $0.55 per therm. The bill for rate schedule FTS-4 does not include the cost of gas because the customer is a transportation service customer. St. Joe does not currently have any customers taking service under rate schedules GS-4, FTS-1, or FTS-2. The bills do not include conservation costs, utility taxes, franchise fees, or gross receipts taxes.

Table 1-2
Comparison of Typical Current and Proposed Monthly Bills

Rate Schedule	Average Monthly Usage (Therms)	Current Monthly Bill	Proposed Monthly Bill
RS-1	8	$23.04	$27.77
RS-2	18	$36.11	$41.57
RS-3	31	$52.67	$59.64
GS-1	34	$53.65	$61.35
GS-2	481	$487.51	$538.11
FTS-4	31,000	$5,642.19	$6,910.37

Source: St. Joe Petition Schedule 5.

For purposes of comparison, Table 1-3 below shows the dollar and percentage increases in typical bills proposed in the instant petition for each rate schedule, as compared to the increases approved by the Commission in St. Joe's 2008 rate case. As the table shows, the resultant bill increases proposed in this docket would be less than the increases approved in the 2008 rate case for all rate schedules.

Table 1-3
Comparison of 2016 vs. 2008 Increases in Typical Monthly Bills

Rate Schedule	2008 Increase	2008 Percentage Increase	2016 Increase	2016 Percentage Increase
RS-1	$6.59	34.54%	$4.73	20.55%
RS-2	$10.36	32.70%	$5.46	15.12%
RS-3	$14.81	30.82%	$6.97	13.23%
GS-1	$13.00	25.08%	$7.70	14.34%
GS-2	$83.56	14.87%	$50.60	10.38%
FTS-4	$2,133.98	60.83%	$1,268.18	22.48%

Sources: St. Joe Petition Schedule 5, and Order No. PSC-08-0436-PAA-GU, Schedule 5.

St. Joe's FTS-5 Rate Schedule

The rates in the FTS-5 rate schedule under which Arizona formerly took service were established in the 2008 rate case based on Arizona's estimated cost to bypass St. Joe's system. This proposed target revenue for the FTS-5 rate schedule enabled St. Joe to retain Arizona as a customer, who even at reduced rates, made contributions to the recovery of St. Joe's fixed costs. The FTS-5 rate schedule is applicable to transportation customers whose annual volumes are 1 million therms or more; there are no customers taking service under this rate schedule at the present time. St. Joe did not request any changes to its FTS-5 rate schedule in its current petition and staff is not recommending any changes at this time. However, in the event that a new customer desires to take service under the FTS-5 rate schedule, staff recommends that St. Joe file documentation with the Commission to illustrate that the tariff rate is adequate to recover the cost to serve the new customer.

Conclusion

The proposed revenue neutral restructured rates are intended to recover no more revenues than were approved in St. Joe's 2008 rate case proceeding. The proposed post-restructuring rate of return on investment of 5.44 percent is equal to the rate of return approved for St. Joe in the 2008 rate case. Based on staff's review of the 2008 rate case proceedings and the information provided in this docket, St. Joe's proposed rate restructuring appears to be reasonable.

Staff recommends that the Commission approve St. Joe's request for rate restructuring and the associated rates as shown in Table 1-1 of this recommendation. The restructured rates should become effective for meter readings on or after August 7, 2016. Within 10 days of the Commission's vote, St. Joe should submit revised tariff sheets reflecting the changes to the gas delivery service rates for administrative approval by staff. Pursuant to Rule 25-22.0406(8), F.A.C., customers should be notified of the revised rates in their first bill containing the new rates. St. Joe should submit a copy of the notice to staff for approval prior to its use. If in the future another customer desires to take service under St. Joe's FTS-5 rate schedule, St. Joe should file documentation with the Commission Clerk (in Docket No. 160000-OT) which shows that the tariff rate is adequate to recover the cost to serve the new customer.

Issue 2: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. When the tariff and notice actions are complete, this docket may be closed administratively. (Mapp)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. When the tariff and notice actions are complete, this docket may be closed administratively.

Item 11

State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 23, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Bruce, Hudson)
Office of the General Counsel (Murphy)

RE: Docket No. 130265-WU – Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.

AGENDA: 07/07/16 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Little Gasparilla Water Utility, Inc., (Little Gasparilla or utility) is a Class B water utility serving approximately 371 customers on Little Gasparilla Island in Charlotte County. The utility's service area is on a private island, which consists primarily of vacation homes. Little Gasparilla's service territory is located in the Southern Water Use Caution Area (SWUCA) within the Southwest Florida Water Management District (SWFWMD).

By Order No. PSC-14-0626-PAA-WU, issued October 29, 2014, in this docket, the utility was given until December 3, 2015, to complete the Phase II pro forma construction of a new building and meter replacements. However, the utility encountered financing issues and requested an extension of time to complete the Phase II pro forma. By Order No. PSC-16-0023-FOF-WU, issued January 12, 2016, the Commission approved the utility's request for an extension of time to complete the required Phase II pro forma by June 3, 2016.

On May 19, 2016, the utility notified staff that it would not be able to meet the June 3, 2016 deadline for completing the Phase II pro forma plant items. Little Gasparilla requested that it be granted a second extension of approximately six months to complete the Phase II pro forma plant items. This recommendation addresses the utility's request for a second extension to complete its Phase II pro forma plant items. The Commission has jurisdiction pursuant to Section 367.121, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve Little Gasparilla's second request for extension of time to complete its Phase II pro forma plant items consisting of the construction of a new building and meter replacements?

Recommendation: Yes. The Commission should approve Little Gasparilla's second request for an extension of time to complete its Phase II pro forma construction of a new building and meter replacements. The pro forma plant items should be completed before December 15, 2016. The utility is required to submit a copy of the final invoices and cancelled checks for the Phase II pro forma plant items. The utility should provide proof that a simplified employee pension plan has been established and that contributions to the fund have begun prior to Commission approval of Phase II rates. (Bruce)

Staff Analysis: As mentioned in the case background, pursuant to Order No. PSC-16-0023-FOF-WU, the utility was granted an extension until June 3, 2016, to complete Phase II pro forma construction of a new building and meter replacements. The utility indicated that the reason for the delay in completing the Phase II pro forma plant items was Charlotte County's potential action to repeal its mandatory water connection ordinance and the effect that it would have on the utility's ability to borrow funds to finance the pro forma plant items.

The Charlotte County ordinance required connections to a centralized water system within one year of availability. Charlotte County did not repeal the mandatory water connection ordinance, but added a five-year grace period for residents who applied for the exception to the mandatory connection. The exception to the mandatory connection requirement expires on January 1, 2021. According to the Charlotte County ordinance, the existing residents who did not apply or were not approved for the exception to the mandatory connection requirement are expected to connect to the utility. The additional connections would pay Little Gasparilla's approved service availability charges, which would potentially increase the financial ability of the utility to pay its existing and any additional loans. However, due to the length of time it took Charlotte County to make its decision, the utility was required to revise projections that had been previously submitted, as loans are approved based on projections and Small Business Administration's (SBA) guaranty. The utility has submitted all of its required updated information.

On May 26, 2016, the utility indicated Stonegate Bank had approved the loan. However, the approval and guaranty from the SBA is still pending. Since the utility is still awaiting financing to get the construction underway, staff recommends that the Commission should approve Little Gasparilla's second request for an extension of time to complete its pro forma construction of a new building and meter replacements. The pro forma plant items should be completed by December 15, 2016. The utility is required to submit a copy of the final invoices and cancelled checks for the Phase II pro forma plant items. Furthermore, in this docket, the utility is required to provide proof that a simplified employee pension plan has been established and that contributions to the fund have begun prior to Commission approval of Phase II rates.

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open for a final decision by the Commission on the appropriate Phase II revenue requirement and rates. (Murphy)

Staff Analysis: The docket should remain open for a final decision by the Commission on the appropriate Phase II revenue requirement and rates.