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 August 9, 2016

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# 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:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of Telecommunications (S. Deas, D. Flores) *DF*  
Office of the General Counsel (S. Hopkins) *S.D.*  
*Smith* *Com for key*

**RE:** Application for Certificate of Authority to Provide Telecommunications Service

**AGENDA:** 8/9/2016 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

**SPECIAL INSTRUCTIONS:** None

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
160149-TX	Paradigm Telecom, Inc.	8897
160156-TX	SKYNET360, LLC	8896
160123-TX	eNetworks, LLC d/b/a eNetworks NC, LLC	8893

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

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-**

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**DATE:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of the General Counsel (Harper) *SMC*  
Division of Accounting and Finance (Barrett, Lester) *MCB PL* *AK* *CRE* *ALM*

**RE:** Docket No. 140001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

Docket No. 150001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

**AGENDA:** 08/09/16 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** 9/26/16 – Court temporarily relinquished jurisdiction to the Commission until this date.

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On June 25, 2014, Florida Power and Light Company (FPL) filed a petition (Petition) with the Commission for approval of FPL acquiring an interest in and cost recovery for a natural gas reserve project (Woodford Project). In the Petition, FPL further requested the Commission establish guidelines by which FPL could participate in future gas reserve projects without prior approval and recover the costs.

Docket No. 150001-EI

Date: July 28, 2016

The Commission bifurcated FPL's request to approve the Woodford Project from the portion of the petition requesting the guidelines. The Woodford Project and guidelines request were scheduled to be heard at separate agenda conferences.

On January 12, 2015, the Commission issued Final Order No. PSC-15-0038-FOF-EI, approving the Woodford Project (Woodford Order). Florida Industrial Power Users Group (FIPUG) and the Office of Public Counsel (OPC) appealed the Woodford Order.

On July 14, 2015, the Commission issued Final Order No. PSC-15-0284-FOF-EI, approving modified gas reserve guidelines for FPL (Guidelines Order). OPC and FIPUG appealed the Guidelines Order. The appeals were assigned Case Nos. SC15-1515 and SC15-1517. On September 25, 2015, the Court stayed the appeals of the Guidelines Order pending its decision on the Woodford Order.

In *Citizens of the State of Florida v. Graham*, 191 So. 3d 897, 902 (Fla. 2016) (Woodford Opinion), the Court reversed the Commission's Woodford Order. The Court held the Commission exceeded its statutory authority when approving cost recovery of FPL's costs and investment in the Woodford Project. *Id.*

Shortly after issuing its opinion on the Woodford Order, the Court lifted the stay of the appeals of the Guidelines Order. On June 15, 2016, the Commission, OPC, FIPUG, and FPL filed a Joint Motion to Relinquish Jurisdiction with the Court, requesting that the Court give jurisdiction back to the Commission, so that the Commission could vacate the Guidelines Order in accordance with the Woodford Opinion. On June 28, 2016, the Court granted the Joint Motion to Relinquish Jurisdiction and gave the Commission 90 days to reconsider the Guidelines Order.

This recommendation addresses whether the Commission should vacate the Guidelines Order.

## Discussion of Issues

**Issue 1:** Should the Commission vacate the Guidelines Order and dismiss FPL's Petition?

**Recommendation:** Yes. In accordance with the Woodford Opinion, the Guidelines Order (Order No. PSC-15-0284-FOF-EI) should be vacated and FPL's Petition should be dismissed.

**Staff Analysis:** In the Woodford Opinion, the Court held that the Commission exceeded its jurisdiction when it approved the Woodford natural gas reserves project. Accordingly, the Woodford Order has no force or effect. *See, e.g., Savery v. Savery*, 870 So. 2d 920, 921 (Fla. 4th DCA 2004) (holding that when a judgment is entirely reversed by the appellate court, it is as if the judgment had never been entered).

The Commission approved FPL's petition to establish guidelines to allow FPL to participate in future gas reserves projects before the Court issued its opinion on the Woodford Order. The basis for the Commission's jurisdiction over the Woodford Order is the same basis for its jurisdiction over the Guidelines Order. In accordance with the Woodford Opinion, the Guidelines Order should be vacated and the Commission should dismiss FPL's Petition because the Commission lacks jurisdiction to approve the Woodford Project and implement guidelines for future gas reserve projects similar to the Woodford Project.

Because the effect of reversal is to treat orders as if they had never been entered, *Savery*, 870 So. 2d at 921, any costs that were allowed to be recovered based on the orders will need to be removed from rates. No projects were implemented pursuant to the Guidelines Order, so there are no costs associated with the Guidelines Order that need to be removed from rates. Any costs associated with the Woodford Order that need to be removed from rates will be addressed in Docket No. 160001-EI.

The Court temporarily relinquished jurisdiction to the Commission to reconsider the Guidelines Order. If the Commission votes to vacate the Guidelines Order and dismiss FPL's Petition, staff counsel will notify the Court of the Commission's decision and take any additional steps necessary to resolve the pending appeals in Case Nos. SC15-1515 and SC15-1517.

**Issue 2:** Should these dockets be closed?

**Recommendation:** Docket No. 140001-EI should be closed. However, Docket No. 150001-EI should remain open in litigation status.

**Staff Analysis:** No further action is needed in Docket No. 140001-EI, so Docket No. 140001-EI should be closed. However, Docket No. 150001-EI should remain open in litigation status because the appeals of the Guidelines Order and another appeal in the docket unrelated to the Guidelines Order are still pending before the Court.

As discussed in Issue 1, there are no costs associated with the Guidelines Order that need to be removed from rates. Any costs associated with the Woodford Order that need to be removed from rates will be addressed in Docket No. 160001-EI.



# 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-

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**DATE:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of Telecommunications (Curry, Bates, Long)  
Office of the General Counsel (Murphy) *KLC* *CM* *TT* *for KY*

**RE:** Docket No. 160119-TP – 2017 State certification §54.313 and §54.314, annual reporting requirements for high-cost recipients, and certification of support for eligible telecommunications carriers.

**AGENDA:** 08/09/16 – Regular Agenda – Proposed Agency Action except for Issue No. 1 – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 10/01/16 (Filing deadline with Federal Communications Commission and Universal Service Administrative Company)

**SPECIAL INSTRUCTIONS:** None

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### Case Background

Section 254(e) of the Telecommunications Act of 1996, provides in part, that a carrier that receives universal service support “shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” States seeking federal high-cost support for carriers within their jurisdiction are required to file a certification annually with the Federal Communications Commission (FCC) and with the Universal Service Administrative Company (USAC). The federal universal service high-cost program is designed to ensure that consumers in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service, both fixed and mobile, at rates that are reasonably comparable to those in urban areas. The program fulfills this

universal service goal by allowing eligible carriers who serve these areas to recover some of their costs from the federal Universal Service Fund.

The carrier annual reporting data collection form known as Form 481 is an FCC form that all eligible telecommunications carriers (ETCs) in the High Cost and Lifeline programs file annually with the FCC and state commissions. For carriers in the High Cost Program, the form collects:

- a carrier's five-year improvement or upgrade plan (only required for interstate rate-of-return ETCs)<sup>1</sup>
- detailed information on any outages
- the number of unfulfilled requests for service
- the number of complaints per 1,000 connections
- certification of service quality compliance
- certification of emergency operation capability
- branding information of the holding company and its affiliates
- documentation demonstrating whether the carrier is engaged with Tribal governments
- certification that frozen support received in 2015 was used consistently with the goal of achieving universal availability of voice and broadband
- certification that high-cost support designated for the use of offsetting reductions in access charges was used in the prior calendar year to build and operate broadband-capable networks used to offer provider's own retail service in areas substantially unserved by an unsubsidized competitor<sup>2</sup>

Carriers in the High Cost Program are also required to provide the company's price offerings for voice and broadband services. Incumbent carriers receiving high-cost support with rates below the FCC's benchmark must report rates and lines on the Rate Floor Data Collection Report and Certification. For carriers in the Lifeline Program, the form collects branding information of the holding company and its affiliates and terms and conditions on service plans offered to subscribers.

Florida ETCs filed their Form 481s concurrently with the Florida Public Service Commission (Commission) and the FCC. Staff reviewed each company's Form 481 filing to verify that all of

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<sup>1</sup> An interstate rate-of-return carrier is one that is allowed to set rates on its various products and services so that it earns no more than the rate-of-return authorized by the FCC. FCC rules define the rate base (specified plant items) upon which a carrier is allowed to earn a return. In Florida, the following companies are interstate rate-of-return companies: ITS Telecommunications Systems, Inc., NEFCOM, TDS Telecom/Quincy Telephone, and Smart City Telecom.

<sup>2</sup> 47 C.F.R. §54.313(d)

the required information for high-cost certification was provided. Staff's recommendation for certification affirms that the federal high-cost funds flowing to carriers in the state, or to any competitive eligible telecommunications carriers seeking support for serving customers within a carrier's service area, will be used in a manner that comports with Section 254(e) of the 1996 Telecommunications Act. Certification is defined by 47 C.F.R. 54.314(a) as follows:

Certification of support for eligible telecommunications carriers

(a) Certification. States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. High-cost support shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.

In order for a carrier to be eligible for high-cost universal service support for all of calendar year 2017, certification must be submitted by the Commission by October 1, 2016.<sup>3</sup> The certification may be filed with the FCC and USAC in the form of a letter from the Commission.<sup>4</sup> Based on prior support received by carriers in Florida, staff estimates that the amount of funding carriers will receive for 2017 will likely be between \$60 and \$65 million in high-cost support.<sup>5</sup>

USAC has developed a letter template for use with annual high-cost certifications of state ETCs. Attachment A is a draft letter, to be signed by the Chairman, using the USAC template to certify high-cost for Florida ETCs. In addition, USAC has also developed an online certification process whereby a state commission representative can sign-in to select and submit the ETCs from their states that have been certified for the upcoming year. Staff suggests filing both the letter and using USAC's online process this year.

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<sup>3</sup> 47 C.F.R. §54.314(d)

<sup>4</sup> 47 C.F.R. §54.314(c)

<sup>5</sup> This estimate does not include wireless carriers.

## Discussion of Issues

**Issue 1:** Should the Commission certify to the FCC and to USAC, by letter from the Chairman and through USAC's online portal, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; Frontier Florida LLC<sup>6</sup>; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; and Windstream Florida, Inc. are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended?

**Recommendation:** Yes. Staff recommends that the Commission should certify to the FCC and USAC, by letter from the Chairman and through USAC's online portal, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; Frontier Florida LLC; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; and Windstream Florida, Inc. are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. (Bates, Curry, Long, Murphy)

**Staff Analysis:** Staff reviewed each of the carriers' annual reporting data collection forms (Form 481) to ensure all necessary information required for high-cost certification was provided by the ETCs. Within Form 481, each of the Florida ETCs has certified that all federal high-cost support provided to them within Florida was used in the preceding calendar year (2015) and will be used in the coming calendar year (2017) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

On May 1, 2014, the FCC released an order waiving the requirement that interstate price cap ETCs receiving frozen or incremental support file new five-year build-out plans.<sup>7</sup> Each of the companies in Issue 1 are interstate price cap ETCs.<sup>8</sup> Therefore, these carriers are exempt from filing a build-out plan. Having reviewed these ETCs' filings, staff recommends that the Commission certify to the FCC and USAC, by letter from the Chairman and through USAC's online portal, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; Frontier Florida LLC; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; and Windstream Florida, Inc. are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the

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<sup>6</sup> Formerly Verizon Florida LLC.

<sup>7</sup> FCC 14-591, WC Docket No. 10-90, Connect America Fund, Order, released May 1, 2014, [https://apps.fcc.gov/edocs\\_public/attachmatch/DA-14-591A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-14-591A1.pdf), accessed on July 15, 2016, ¶ 1.

<sup>8</sup> An interstate price cap carrier is a carrier not subject to rate-of-return regulation. A price cap carrier is limited in its ability to raise rates on the basis of a formula defined by the FCC. The extent to which a carrier can raise rates depends on its growth in expenses and a productivity growth factor.

Date: July 28, 2016

federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

**Issue 2:** Should the Commission certify to the FCC and to USAC, by letter from the Chairman and through USAC's online portal, that ITS Telecommunications Systems, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone; and Smart City Telecommunications, LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended?

**Recommendation:** Yes. Staff recommends that the Commission should certify to the FCC and to USAC, by letter from the Chairman and through USAC's online portal, that ITS Telecommunications Systems, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone; and Smart City Telecommunications, LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. (Bates, Curry, Long, Murphy)

**Staff Analysis:** This issue addresses annual federal high-cost certification for Florida's four interstate rate-of-return carriers. FCC Form 481 requires interstate rate-of-return carriers receiving support for voice telephony service and offering broadband (as a condition of such support) to file a five-year build-out plan that accounts for the broadband obligations adopted in the USF/ICC Transformation Order.<sup>9</sup> In 2014, carriers were required to forecast network improvements for calendar years 2015 through 2019. The initial five-year build-out plans were consistent with 47 C.F.R. §54.202 (a)(1), and included the specific proposed improvements or upgrades to the network, and an estimate of the area and population that will be served as a result of the improvements. For the July 1, 2016 filing, carriers had to report progress towards those goals.

Staff reviewed each of the interstate rate-of-return carrier's annual reporting data collection forms (Form 481) to ensure all necessary information required for high-cost certification was provided by the ETCs. Within Form 481, each of the Florida ETCs has certified that all federal high-cost support provided to them within Florida was used in the preceding calendar year (2015) and will be used in the coming calendar year (2017) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Given these ETCs' certifications and the companies' reported progress towards the goals in their five-year build-out plans, staff recommends that the Commission certify to the FCC and to USAC, by letter from the Chairman, that ITS Telecommunications Systems, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS

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<sup>9</sup> FCC 11-161, WC Docket No. 10-90, Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, released November 18, 2011, [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-11-161A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-161A1.pdf), accessed July 15, 2016, ¶ 587.

Telecom/Quincy Telephone; and Smart City Telecommunications, LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.



**Issue 3:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interest are affected by the proposed agency action (in Issue 2 only) files a protest within 21 days of the issuance of the order, this docket should be closed upon issuance of the Consummating Order. (Bates, Curry, Long, Murphy)

**Staff Analysis:** Upon conclusion of the 21 day protest period, if no protest has been filed, this docket should be closed upon issuance of the Consummating Order.

STATE OF FLORIDA

JULIE I. BROWN  
CHAIRMAN



Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
(850) 413-6042

## Public Service Commission

July 28, 2016

Ms. Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

USAC  
Vice President, High Cost and Low Income Division  
2000 L Street NW, Suite 200  
Washington, DC 20036

**Re: CC Docket No. 96-45/WC Docket No. 10-90, Annual State-Certification of Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R. § 54.314**

Dear Ms. Dortch:

Pursuant to the requirements of 47 C.F.R. § 54.314, the Florida Public Service Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that the telecommunications carriers included in this letter are eligible to receive federal high-cost support for the program years cited.

The Florida Public Service Commission certifies for the carriers listed below that all federal high-cost support provided to such carriers within Florida was used in the preceding calendar year (2015) and will be used in the coming calendar year (2017) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.<sup>1</sup>

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<sup>1</sup> 47 C.F.R. §54.314(a) ("Certification. States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. High-cost support shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.")

Company Name	Study Area Code
BellSouth Telecommunications, LLC d/b/a AT&T Florida	215191
Embarq Florida, Inc. d/b/a CenturyLink	210341
Frontier Communications of the South, LLC	210318
Frontier Florida LLC	210328
GTC, Inc. d/b/a FairPoint Communications	210291, 210329, 210339
ITS Telecommunications Systems, Inc.	210331
Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone	219904
Northeast Florida Telephone Company d/b/a NEFCOM	210335
Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone	210338
Smart City Telecommunications, LLC d/b/a Smart City Telecom	210330
Windstream Florida, Inc.	210336

If you have any questions regarding this certification, please contact Kiwanis L. Curry at (850) 413-6662, or Mark Long at (850) 413-6101.

Sincerely,

Julie I. Brown  
Chairman

# Item 4

FILED JUL 28, 2016  
DOCUMENT NO. 05654-16  
FPSC - COMMISSION CLERK

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:** May 26, 2016 July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Accounting and Finance (Slemkewicz, Fletcher, Mouring) *JS BJS AJ*  
 Division of Economics (Wu) *ALM*  
 Division of Engineering (Wooten) *POE*  
 Office of the General Counsel (Brownless) *MJS*

**RE:** Docket No. 160039-EI – Petition for approval of regulatory asset related to the retirement of Plant Smith Units 1 and 2, by Gulf Power Company.

**AGENDA:** ~~06/09/16~~ 08/09/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Patronis

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

## Case Background

On February 24, 2016, Gulf Power Company (Gulf) filed a petition seeking approval to create a regulatory asset and defer recovery of the amounts related to the retirement of Plant Smith Units 1 and 2 (Units). The recovery of the regulatory asset would be deferred to a future proceeding with an effective date after the expiration date of the Stipulation approved in Order No. PSC-13-0670-S-EI,<sup>1</sup> which is the last billing cycle in June 2017. The decision to retire the Units was made after Gulf finalized its Mercury and Air Toxics Standards (MATS) rule compliance strategy for each of its coal-fired units. At December 31, 2015, the Net Book Value of the Units was approximately \$61.9 million and the estimated remaining inventory balance was \$2.9

<sup>1</sup>Order No. PSC-13-0670-S-EI, issued December 19, 2013, in Docket No. 130140-EI, *In re: Petition for rate increase by Gulf Power Company.*

million. In response to a staff data request, Gulf provided the actual net book value and actual remaining inventory balances of \$60,244,659 and \$2,809,649, respectively, as of the actual retirement date of March 31, 2016.<sup>2</sup> The Office of Public Counsel is listed as an interested person in this docket.

This recommendation addresses the creation of the regulatory asset and the deferral of its recovery to a future proceeding. The Commission has jurisdiction over this matter pursuant to Sections 366.04 and 366.06, Florida Statutes (F.S.).

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<sup>2</sup>Document No. 04002-16, filed June 24, 2016, in Docket No. 160039-EI, In re: Petition for approval of regulatory asset related to the retirement of Plant Smith Units 1 and 2, by Gulf Power Company.

## Discussion of Issues

**Issue 1:** Should the Commission approve Gulf's request to create a regulatory asset related to the retirement of Plant Smith Units 1 and 2 and defer the recovery of the regulatory asset to a future proceeding?

**Recommendation:** Yes. The Commission should approve Gulf's request to create a regulatory asset related to the retirement of Plant Smith Units 1 and 2 and defer the recovery of the regulatory asset to a future proceeding. Further, the Commission should find that the approval to record the regulatory asset for accounting purposes does not limit the Commission's ability to review the amounts and recovery period for reasonableness in future proceedings in which the regulatory asset is included. (Slemkewicz, Wooten, Wu)

**Staff Analysis:** On February 24, 2016, Gulf filed a petition seeking approval to create a regulatory asset and defer recovery of the amounts related to the retirement of Plant Smith Units 1 and 2 (Units). Gulf's decision to retire the units was based on its MATS rule compliance strategy for its coal-fired generating units. Unit 1 began service in 1965 and was previously scheduled to be retired in 2030. Unit 2 began service in 1967 and was previously scheduled to be retired in 2032. Based on the MATS evaluation, the Units were retired on March 31, 2016. At December 31, 2015, the Net Book Value of the Units was \$61,880,482 and the estimated remaining inventory balance was \$2,852,159.

In its petition, Gulf asserts that its best option for compliance with MATS is the retirement of Plant Smith Units 1 and 2. Staff requested the MATS compliance alternatives that Gulf explored in an effort to determine the accuracy of this determination. In response to this request, Gulf submitted the Plant Smith Asset Evaluation, dated December 11, 2014.<sup>3</sup> After a review of the provided analysis, staff is satisfied that the early retirement of Plant Smith Units 1 and 2 is the most cost-effective alternative.

Because the Units are being retired early, certain entries must be made to Gulf's books and records. Rule 25-6.0436(6), Florida Administrative Code (F.A.C.), requires a utility to compile an annual depreciation status report showing changes to categories of depreciation that will require a revision. In addition, Rule 25-6.0436(7)(a), F.A.C., provides that:

Prior to the date of retirement of major installations, the Commission shall approve capital recovery schedules to correct associated calculated deficiencies where a utility demonstrates that (1) replacement of an installation or group of installations is prudent and (2) the associated investment will not be recovered by the time of retirement through the normal depreciation process.

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<sup>3</sup>Confidential Document No. 02442-16, filed April 25, 2016, in response to Staff's Second Data Request Item No. 1, in Docket No. 160039-EI, *In re: Petition for approval of regulatory asset related to the retirement of Plant Smith Units 1 and 2, by Gulf Power Company*.

Gulf's current depreciation rates are based on retirement dates of 2030 and 2032 for the Units. Therefore, the investment in the Units will not be recovered through the normal depreciation process due to the early retirement of the Units.

As a result of the Stipulation,<sup>4</sup> Gulf's depreciation and amortization accrual rates in effect as of the effective date of the Stipulation remain in effect. Also, Gulf is not required to file any depreciation or dismantlement studies during the term of the Stipulation that ends with the last billing cycle of June, 2017. However, Gulf is required to file depreciation and dismantlement studies by either December 31, 2018, or a period defined as not more than 1 year nor less than 60 days before the filing of its next general rate proceeding, whichever is sooner. On July 14, 2016, Gulf filed a depreciation and dismantlement study that was assigned Docket No. 160170-EI.<sup>5</sup>

In response to a staff data request, Gulf provided the actual net book value and actual remaining inventory balance of \$60,244,659 and \$2,809,649, respectively, as of the actual retirement date of March 31, 2016. Based on a review of Gulf's filing and its responses to Staff's First Data Request<sup>6</sup> and Staff's Third Data Request, it is staff's opinion that the Units' Net Book Value of \$60,244,659 \$61,880,482 and the estimated remaining inventory balance of \$2,809,649 \$2,852,159 represent the appropriate amounts of the proposed regulatory asset as of March 31, 2016. December 31, 2015. The actual amounts to be recorded as a regulatory asset will be slightly less due to the additional accumulated depreciation incurred between January 1, 2016, and March 31, 2016.

The early retirement of the Units will require that future revisions be made to the depreciation rates, amortization, and capital recovery schedules. ~~As previously stated, Gulf is generally not required to file any depreciation or dismantlement studies before December 31, 2018.~~ The concept of deferral accounting allows companies to defer costs and seek recovery through rates at a later time. The alternative would be for a company to seek a rate case each time it experiences an exogenous event. In staff's opinion, it is appropriate to create a regulatory asset for the amounts associated with the early retirement of the Units and defer recovery until the amounts can be addressed included in the next depreciation study or base rate proceeding. ~~dismantlement studies.~~ Further, the Commission should find that the approval to record the regulatory asset for accounting purposes does not limit the Commission's ability to review the amounts and recovery period for reasonableness in future proceedings in which the regulatory asset is included.

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<sup>4</sup>Document No. 07112-13, filed November 22, 2013, in Docket No. 130140-EI, *In re: Petition for rate increase by Gulf Power Company* (pp. 12-13).

<sup>5</sup>Docket No. 160170-EI, *In re: Petition for approval of 2016 depreciation and dismantlement studies, approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company.*

<sup>6</sup>Document No. 01656-16, filed March 30, 2016, in Docket No. 160039-EI, *In re: Petition for approval of regulatory asset related to the retirement of Plant Smith Units 1 and 2, by Gulf Power Company.*



**Issue 2:** 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, this docket should be closed upon the issuance of a consummating order. (Brownless)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed 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-**

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**DATE:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Accounting and Finance (Mouring)

Division of Engineering (Lee) *M* *BS* *ALM*  
Office of the General Counsel (Janjic) *POE* *TJ*

**RE:** Docket No. 160134-EI – Petition for accounting recognition of Gulf Power Company's ownership in Plant Scherer as being in service to retail customers.

**AGENDA:** 08/09/16 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On May 5, 2016, Gulf Power Company (Gulf or Company) filed a letter notifying the Commission of the change in status of Gulf's ownership interest in the Plant Scherer Unit No. 3 (Scherer Unit 3) and the associated common facilities. In addition to notifying the Commission that Plant Scherer is now dedicated to serving native load customers, Gulf specifically requested that it may: 1) stop making adjustments to its monthly Earning Surveillance Reports (ESRs) to remove Scherer Unit 3's related investment and expenses from the retail jurisdictional rate of return calculation to the extent that it is not currently committed to off system sales; and 2) reflect the Scherer Unit 3 as a native load serving resource in all other regulatory filings with the Commission. The Company has been making adjustments to remove Scherer Unit 3 from retail jurisdictional filings since 1990 pursuant to Order No. 23573.<sup>1</sup> The Office of Public Counsel

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<sup>1</sup> Order No. 23573, issued October 3, 1990, in Docket No. 891345-EI, *In re: Application of GULF POWER COMPANY for a rate increase.*

Docket No. 160134-EI

Date: July 28, 2016

filed a Notice of Intervention in this docket on July 21, 2016. Also, by letter dated July 27, 2016, the Sierra Club urged the Commission to deny the Company's request or to defer its decision on this item, citing what the Sierra Club believes are substantive omissions in the Company's request.

This recommendation addresses the requested change in status for the Scherer Unit 3. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

## Discussion of Issues

**Issue 1:** Should the Commission approve Gulf's petition to acknowledge the change in status of the Scherer Unit 3?

**Recommendation:** No. Gulf's petition to include Scherer Unit 3 in retail jurisdictional rate base should be fully vetted in a future regulatory proceeding. In accordance with Order No. 23573, the Company should continue to make adjustments to its monthly Earnings Surveillance Reports (ESRs), and all other regulatory filings with the Commission, to remove Scherer Unit 3's related investment and expenses from the retail jurisdictional rate base. (Mouring, Lee)

**Staff Analysis:** As stated in the case background, Gulf requested that it may: 1) stop making adjustments to its monthly ESRs to remove Scherer Unit 3's related investment and expenses from the retail jurisdictional rate of return calculation to the extent that it is not currently committed to off system sales; and 2) reflect the Scherer Unit 3 as a native load serving resource in all other regulatory filings with the Commission.

In its petition, the Company stated that the first of three existing long-term off system sales contracts expired at the end of 2015, releasing approximately 52 percent of Gulf's ownership in Scherer Unit 3, and an additional contract expiring in May 2016, releasing an additional 24 percent of Gulf's ownership in Scherer Unit 3 to be used in serving its native load customers. The final long-term contract is set to expire in December 2019, which will then enable Gulf to dedicate 100 percent of the capacity of its ownership in Scherer Unit 3 to serving its native load customers.

Gulf also stated that its ownership interest in Scherer Unit 3 has always been to ultimately serve its native load customers, and the long-term off system sales contracts served to bridge the gap in time between the commercial operation date of Scherer Unit 3 and the anticipated need of the generation to serve native load customers. In its petition, the Company cites two Commission Orders<sup>2</sup> in support of its assertion that its ownership interest in Scherer Unit 3 was deemed prudent by the Commission in lieu of constructing new generating assets at its Carryville site, and that it was always intended to serve native load customers.

Staff agrees that the Commission has acknowledged in previous Orders that the decision to not construct a new generating asset at the Carryville site, and purchase an ownership interest in Scherer Unit 3 was found to be reasonable.<sup>3</sup> However, with the passage of time since those Orders were issued, Gulf is situated differently from a generation standpoint. Therefore, staff believes that the inclusion of Scherer Unit 3 in retail jurisdictional rate base should be fully vetted in a future regulatory proceeding. A formal hearing on this matter would afford all parties an opportunity to fully litigate the matter. In accordance with Order No. 23573, the Company should continue to make adjustments to its monthly ESRs, and all other regulatory filings with the Commission, to remove Scherer Unit 3's related investment and expenses from the retail

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<sup>2</sup> Order Nos. 10557, issued February 1, 1982, in Docket No. 810136-EU, *In re: Petition of Gulf Power Company for an increase in its rates and charges.* and 11498, issued January 11, 1983, in Docket No. 820150-EU, *In re: Petition of Gulf Power Company for an increase in its rates and charges.*

<sup>3</sup> Ibid.

jurisdictional rate base. However, staff believes the Company may, at its discretion, make adjustments to its monthly ESRs to include Scherer Unit 3 in the “Proforma Basis” balances, but the “FPSC Adjusted Basis” should continue to remove Scherer Unit 3’s related investment and expenses.

**Issue 2:** Should this docket be closed?

**Recommendation:** If the Commission approves staff's recommendation, this docket should be closed. (Janjic)

**Staff Analysis:** If the Commission approves staff's recommendation, this docket should be closed.

# 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:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Accounting and Finance (Galloway, Norris)  
Office of Auditing and Performance Analysis (Hallenstein, Lehmann, Vinson)  
Division of Economics (Johnson, Hudson)  
Division of Engineering (Mtenga, Ellis)  
Office of the General Counsel (Corbari)

*Handwritten notes:* CH, BJ, ALM, P10, POE, C, NUM, KTC, on 7/29

**RE:** Docket No. 140217-WU – Application for staff-assisted rate case in Sumter County by Cedar Acres, Inc.

**AGENDA:** 08/09/16 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Edgar

**CRITICAL DATES:** 08/13/16 (60 days from Compliance Report Filing)

**SPECIAL INSTRUCTIONS:** None

### Case Background

Cedar Acres, Inc. (Cedar Acres or Utility) is a Class C water utility serving approximately 319 customers in the Oakland Hills subdivision located in Sumter County. The area is in the Southwest Florida Water Management District (SWFWMD). Wastewater treatment is provided by septic tanks. The Utility was subject to Sumter County jurisdiction when the development was designed and the Utility was established. Sumter County turned over jurisdiction to the Florida Public Service Commission (Commission) in 1987. Unaware of the change in jurisdiction, Cedar Acres did not apply for an original certificate with the Commission until

2008. The Commission granted Cedar Acres an original certificate and approved the rates and charges in existence at the time it was certificated.<sup>1</sup>

On November 17, 2014, the Commission received Cedar Acres' application for a staff-assisted rate case (SARC), and the instant docket was the Utility's first rate case. Prior to this docket, rate base had never been established for Cedar Acres. Likewise, prior to this docket, the Utility's rates had not been changed since its inception, almost 30 years ago. On May 14, 2015, staff conducted a customer meeting in Lady Lake, Florida. Approximately 38 customers attended the meeting and expressed concerns, primarily with the amount of the rate increase.

At the October 13, 2015, Commission Agenda Conference (Agenda Conference), staff presented its recommendation regarding the Utility's SARC. Several customers attended the Agenda Conference and addressed the Commission. These customers restated concerns that were expressed at the customer meeting. In addition to the amount of the rate increase, the customers conveyed frustration with billing issues, including meter and billing accuracy, and overall management practices of the Utility. The customers also conveyed concerns regarding a power outage incident that occurred in July 2015 which resulted in a water outage. The outage incident brought to light a major Department of Environmental Protection (DEP)/Department of Health (DOH) compliance issue with regard to boil water notices.

In its recommendation, staff recommended that the Commission find the Utility's overall quality of service unsatisfactory. Circumstances surrounding the July 2015 outage incident and improper issuance of boil water notices, along with the same violations cited in both the 2012 and 2015 DEP sanitary surveys, weighed heavily in staff making this recommendation.

Based on information contained in staff's recommendation, comments presented by customers and the Office of Public Counsel (OPC), and discussions at the Agenda Conference, the Commission approved a rate increase for Cedar Acres, but found the Utility's quality of service to be unsatisfactory.<sup>2</sup> As a result, the Commission ordered several measures be taken to improve the Utility's service to its customers.<sup>3</sup> These measures included staff conducting a management audit of the Utility's billing and management practices. Additionally, the Utility was ordered to file a compliance report with the Commission at 6 and 12 month intervals from the date of the consummating order. In the compliance report, Cedar Acres was to include a billing analysis as well as state all corrective measures taken: to resolve its billing issues; to address customer concerns and complaints; and to comply with Commission, DEP, and DOH regulations, including boil water notices.

Commission staff initiated the management audit of Cedar Acres on October 26, 2015. The findings of the "Management Audit of Cedar Acres, Inc." (Management Audit) were published

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<sup>1</sup> Order No. PSC-09-0541-FOF-WU, issued August 4, 2009, in Docket No. 080098-WU, *In re: Application for certificate to provide water service in Sumter County by Cedar Acres, Inc.*

<sup>2</sup> Order No. PSC-15-0535-PAA-WU, issued November 19, 2015, in Docket No. 140217-WU, *In re: Application for staff assisted rate case in Sumter County by Cedar Acres, Inc.*

<sup>3</sup> *Id.*

in March 2016.<sup>4</sup> The Management Audit focused on key management issues including owner involvement and accountability, adequacy of contractor performance, and effective relations with customers and regulators. Commission audit staff also reviewed in general, with the Utility, Commission rules in the Florida Administrative Code (F.A.C.) that govern water and wastewater utilities, and in particular the following rules:

- 25-30.130, F.A.C. Record of Complaints
- 25-22.032, F.A.C. Customer Complaints
- 25-30.311, F.A.C. Customer Deposits
- 25-30.26, F.A.C. Meter Readings
- 25-30.125, F.A.C. System Maps and Records
- 25-30.335, F.A.C. Customer Billing
- 25-30.320, F.A.C. Refusal or Discontinuance of Service
- 25-30.460, F.A.C. Application for Miscellaneous Service Charge
- 25-30.433, F.A.C. Determination of Quality of Service.<sup>5</sup>

On June 14, 2016, Cedar Acres filed its 6-month Compliance Report (Compliance Report) pursuant to Order No. PSC-15-0535-PAA-WU.<sup>6</sup> This recommendation addresses the Utility's progress and compliance with the Commission's Order. This Commission has jurisdiction pursuant to Chapter 367, Florida Statutes, (F.S.).

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<sup>4</sup>Document No. 01612-16 "Management Audit of Cedar Acres, Inc.," filed in Docket No. 140217-WU; and <http://www.floridapsc.com/Files/PDF/Publications/Reports/General/Waterandwastewater/CedarAcres.pdf>.

<sup>5</sup>*Id.*, p. 1-2

<sup>6</sup>Document No. 04429-16 "Cedar Acres 6-Month Compliance Report," filed in Docket No. 140217-WU.

## Discussion of Issues

**Issue 1:** Is Cedar Acres in substantial compliance with Order No. PSC-15-0535-PAA-WU; and, if not, should Cedar Acres be ordered to show cause why it is not in substantial compliance with Order No. PSC-15-0535-PAA-WU?

**Recommendation:** Yes, Cedar Acres is in substantial compliance with Order No. PSC-15-0535-PAA-WU, and should not be ordered to show cause. (Corbari, Galloway, Mtenga, Johnson)

**Staff Analysis:** By Order No. PSC-15-0535-PAA-WU, Cedar Acres was ordered to allow Commission staff to conduct a management audit of the Utility to ensure appropriate management controls and practices were being implemented and corrective actions were being performed to comply with Commission rules and regulations. Cedar Acres was also ordered to file a Compliance Report at 6 and 12-month intervals from the date of the Consummating Order, issued on December 14, 2015, outlining corrective measures it had taken to address regulatory compliance issues with DEP and DOH, customer concerns and complaints, and billing issues.

Commission staff initiated the management audit of Cedar Acres on October 26, 2015, and the findings were published in March 2016. Pursuant to Order No. PSC-15-05350PAA-WU, Cedar Acres timely submitted its 6-month Compliance Report but neglected to file its billing analysis with the Compliance Report. By letter dated June 27, 2016, staff informed Cedar Acres of the omission of the billing analysis, and instructed the Utility to file the billing analysis by July 8, 2016. Cedar Acres filed its billing analysis on July 8, 2016.

In its Compliance Report, Cedar Acres included a variety of corrective measures that have been taken, as directed by this Commission and suggested by Managerial Audit Staff. Presented below are the broad categories of concern cited by the Commission in its Order along with an update from the Utility as to how these concerns have been addressed.

### Regulatory Compliance with DEP and DOH

The Commission found that the Utility's overall quality of service was unsatisfactory due to factors surrounding the July 2015 water outage incident and improper issuance of boil water notices, as well as repeat violations cited on both the 2012 and 2015 DEP sanitary surveys. Pursuant to Order No. PSC-15-0535-PAA-WU, Cedar Acres was required to report to the Commission what corrective actions it has taken to comply with DEP and DOH regulation, including boil water notices.

In its Compliance Report, Cedar Acres reported that it corrected all of the deficiencies noted in the July 2015 DEP Sanitary Survey Report. Staff verified with the DEP that all outstanding deficiencies including a signed and sealed tank inspection, an emergency preparedness plan, a cross connection control panel on file, the calibration of the finished drinking water flow meter, and the repair of a damaged well pedestal have been corrected as of March 2016.

Prior to the Commission's Order, the Utility had been issuing boil notices incorrectly. In its Compliance Report, the Utility reported that it has installed a "blast" messaging system which

notifies each customer directly via telephone of the implementation and rescission of boil water notices.

As of March 2016, in addition to the “blast” messaging system, the Utility installed, and ensured the proper operation of, a Sensaphone (auto-dialer) system. The Sensaphone system alerts the plant operator, Universal Waters, and the Utility of any operational problems. The Utility also reported that it conducted generator maintenance checks to ensure back-up power for power outages.

In June 2016, the “blast” messaging system and auto-dialer were put to the test when, during the course of Tropical Storm Colin, a transformer surged, causing the primary and secondary pumps to shut off. The generator turned on properly but a drop in water pressure still occurred, which resulted in a need for a boil water notice to the community. The “blast” messaging system functioned properly during this incident, and, in accordance with DEP regulations, notified the customers of the boil water notice. DEP has noted that Cedar Acres is in compliance with its policies with regard to both the Utility’s overall response to the outage, including issuing and rescinding the boil water notices, as well as the operation of the Utility after the incident.

### **Customer Concerns and Complaints**

At the October 13, 2015 Agenda Conference, several customers conveyed their frustration with regard to overall management practices of the Utility. Specifically, some of these customers noted their repeated inability to reach Cedar Acres personnel when needed to resolve problems.

One of the first suggestions outlined in the Commission’s Management Audit was the need for Cedar Acres to develop and implement written procedures that would provide a record of customer complaints and inquiries in compliance with Rule 25-30.130, F.A.C. According to the Management Audit, in the past, Cedar Acres failed to promptly address customers’ concerns and to provide an adequate two-way channel for customers to funnel inquiries and complaints.

However, according to the Utility, Cedar Acres made it a practice to return all calls that are made to the Utility’s office. From the Management Audit, staff concluded that, on occasion, customers called the billing contractor if they were unable to reach someone at the Utility office. As a result, customer complaints were not logged in accurately, and thus, not returned. Cedar Acres agrees nonetheless that, in the past, it had not been keeping records of all incoming calls and its response to customer concerns.

In January 2016, the Utility began the practice of logging customer inquiries and complaints received by customers. The log currently contains records denoting customer names, contact date, the form of contact (i.e., email, telephone, written notice), nature of inquiry, and the status of the Utility’s response.

The Management Audit suggested that since Cedar Acres is ultimately responsible for maintaining a record of complaints, and monitoring and tracking complaints, customers should be provided with and informed to call the Hollywood office number for all customer billing and service inquiries. This measure should provide the Utility greater awareness of all customer issues and the performance of its contractors. For this reason, and due to a telephone company

routing issue, the Utility's officers arranged for a new telephone line to be installed. According to Cedar Acres' Compliance Report, landlines from the Oakland Hills subdivision were being routed in error to a hospital when customers were trying to call the Utility's Hollywood office. Staff believes with this new line change, customers should have a clear line of communication with the Utility. The Utility's new telephone number and new email address were included on the March 1, 2016 customer bills and subsequent bills. In its Compliance Report, the Utility wanted to note that many customers do not have answering machines; however, every attempt is made by the Utility to contact them, up to five attempted returned calls.

In an additional effort to improve communications with the customers, on January 16, 2016, the Utility's president held an informal meeting with customers and officers of the homeowners association. The owners of Artesian, the company providing billing and meter reading services for Cedar Acres, also attended this meeting. Besides making sure the customers have a clear understanding of how to reach the Utility, the Utility president wanted to hear and address customer's concerns and frustrations expressed at the October 13, 2015, Agenda Conference.

Prior to the January 16, 2016, informal meeting, customers expressed concerns that there was no vehicle signage or uniforms on meter readers. They were concerned with unidentified people on their property. Thus, the customers wanted the meter readers to be clearly identifiable. Understanding this concern, both the Utility and Artesian note that Artesian has had signage on their truck since 2010, and that Artesian personnel wear coral colored shirts that say "Meter Reading." Utility representatives shared this information with the customers at the informal meeting. According to the Utility, many customers told Artesian personnel attending the meeting that they have known the Artesian personnel for years. Based on this information, staff believes the meter reader identification matter has been resolved.

Since the Commission's Order and the January 16, 2016 informal customer meeting, the Commission received two customer complaints from two separate customers. One complaint regarded a billing address issue that will be discussed below. The other complaint regarded the June 2016 water outage incident that occurred due to the transformer surge, discussed above. In both instances, staff believes the Utility was appropriately responsive. In the latter instance, both the Utility and staff have had numerous telephone conversations and exchanged several emails with the customer explaining the cause of the outage. Staff believes the June 2016 outage complaint has been adequately addressed and resolved.

### **Billing Issues**

In addition to frustration with management practices, customers expressed concern with the Utility's billing practices. Customers reported faulty meters, unusual bills, and an issue with mailing.

A primary source of the Utility's billing issues was directly related to the need to replace customer meters. Some of the billing abnormalities were due to inaccurate or inoperable meters which often led to estimated bills. Additionally, OPC expressed concern that the billing determinants relating to usage were not reliable for rate-setting purposes. To address this problem, the Commission ordered Cedar Acres to implement a meter replacement program. Further, the Utility was ordered to escrow \$2,350 every two months, \$14,110 annually, to be

used for this program. This amount equates to approximately 78 meters each year for a total of 320 meters.

In an effort to help the Utility efficiently achieve the goal of replacing meters, the Management Audit suggested that the Utility perform an audit of every residential meter to identify its condition in order to prioritize meter replacements. In its Compliance Report, the Utility indicated that meters are audited with each reading and prioritized for meter replacement. According to the Compliance Report and discussions with the Utility, 14 meters have been replaced. The Utility has ordered 12 additional meters that are scheduled to be installed by the end of July. Taking into consideration that the bills reflecting the new rates were not sent until March 2016, for the January/February billing cycle, staff believes that Cedar Acres is making good progress with the meter replacement program. Staff will continue to monitor the progress of the meter replacement program.

In line with the meter replacement program and pursuant to Order No. PSC-15-0535-PAA-WU, Cedar Acres established an escrow account and filed the escrow agreement with the Commission on April 14, 2016. According to the Utility, the ordered amount of funds have not yet been escrowed even though meters have been replaced. The Utility explained that unexpected costs to replace a pump motor and starter were paid in March 2016. These costs were necessary for the proper operation of the utility plant and were in the amount of \$4,587. The Utility advised staff that, due to the motor replacement expenditure, the ordered funds were not available to be placed into escrow. Staff believes this is an extraordinary situation. While the Utility is not in full compliance with the Commission's Order, staff believes the Utility is following the spirit of the Order by going forward with the actual replacement of meters. Staff also believes that the Utility will be in a position to follow the escrow procedure, as ordered, by September 2016, once receiving the July/August billing cycle revenues.

In order to address some of the concerns regarding incorrectly estimated bills, the Management Audit suggested that Cedar Acres modify its bill calculation process and institute a review of each bill for inaccuracies prior to being mailed to customers. According to the Management Audit, the Utility's review process should include cross-checking the meter readings log input to customer bills. In its Compliance Report, Cedar Acres states that bills are reviewed by the Finance Manager for anomalies. The Utility also stated that a spreadsheet is maintained to compare the recent billing with the prior billing period. While a number of meters remain inoperable or unreadable, Cedar Acres indicated in its Compliance Report that those customers are only billed the base facility charge.

Since the Cedar Acres is unable to determine usage for these customers, staff believes the billing analysis provided by Cedar Acres is not reliable for determining customer usage for the six month billing period included in the report. As the Utility continues to replace meters, it will be able to gather more accurate billing data. The billing analysis Cedar Acres must file at the end of 12 months should provide a better representation of customer usage.

The final billing concern staff evaluated had to do with mailing and address issues. Staff is aware of two separate billing address issues. One billing address issue was discussed at the Agenda Conference. It involved a customer's bill being mailed to an incorrect address, and his

unsuccessful repeated attempts at getting the issue resolved. After the Agenda Conference, the matter was resolved.

Additionally, as mentioned earlier, there was a complaint filed with the Commission on May 11, 2016 involving a homeowner receiving a copy of the tenant's bill. According to the homeowner, she had expressed on several occasions that she did not wish to receive a copy of her tenant's bill. While the tenant was receiving the bill through email, the Utility was under the impression the homeowner also wanted a copy of the bill. The issue is now resolved. Staff believes this complaint took place during a time when Cedar Acres was in the process of implementing its new policies and procedures pertaining to customer complaints and/or inquires. It appears that improvements have been made. However, staff believes any improvement in this regard should be evaluated at the end of the 12-month compliance period.

Based on the above, staff believes that Cedar Acres is making a substantial effort to comply with Order No. PSC-15-0535-PAA-WU by implementing corrective actions and improvements regarding the Utility's service to its customers. Staff also believes that Cedar Acres has incorporated many of the suggestions made in the Management Audit. Further, staff believes that Cedar Acres has taken positive steps toward improving its billing issues, and complying with regulatory matters. Because staff believes Cedar Acres to be making a substantial effort to comply with the Commission's Order, staff does not believe the Utility should be ordered to show cause for non-compliance.

The Utility's next Compliance Report is due on December 14, 2016. Staff will continue to monitor the Utility's progress and the status of the escrow account, along with the meter replacement program. Staff is scheduled to report back to the Commission after Cedar Acres files its next Compliance Report.



**Issue 2:** Should this docket be closed?

**Recommendation:** No. This docket should remain open to allow staff to continue to monitor Cedar Acres' compliance with Commission Order No. PSC-15-0535-PAA-WU, the meter replacement program, and escrow account. (Corbari)

**Staff Analysis:** This docket should remain open to allow staff to continue to monitor Cedar Acres' compliance with Commission Order No. PSC-15-0535-PAA-WU, the meter replacement program and the escrow account. Additionally, pursuant to Order No. PSC-15-0535-PAA-WU, Cedar Acres is required to file a 12-month Compliance Report on December 14, 2016. Staff will report back to the Commissioners regarding Cedar Acres' compliance status after reviewing the Utility's next Compliance Report. Therefore, this docket should remain open.

# 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:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Engineering (Lee, Matthews) *POE*  
Division of Accounting and Finance (Slemkewicz) *JS*  
Division of Economics (Draper, Guffey, McNulty) *SKG*  
Office of the General Counsel (Janjic) *ALM*

**RE:** Docket No. 160128-EI – Petition for approval to include in base rates the revenue requirement for the Hines Chillers Uprate Project, by Duke Energy Florida, LLC.

**AGENDA:** 08/09/16 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** Waiver of 60 day time limit.(DN 03841-16)

**SPECIAL INSTRUCTIONS:** None

### Case Background

On May 20, 2016, Duke Energy Florida, LLC (DEF) filed a petition for approval to include in base rates the revenue requirement for the Hines Chillers Uprate Project. By Order No. PSC-13-0598-FOF-EI, the Commission approved the Revised and Restated Stipulation and Settlement Agreement (RRSSA).<sup>1</sup> Paragraph 16(a) of the RRSSA includes provisions for DEF to seek recovery of the prudently incurred revenue requirement of power uprates to existing DEF units,

<sup>1</sup>Order No. PSC-13-0598-FOF-EI, issued November 12, 2013, in Docket No. 130208-EI, *In re: Petition for limited proceeding to approve revised and restated stipulation and settlement agreement by Duke Energy Florida, Inc. d/b/a Duke Energy.*

which may be placed in-service prior to year-end 2017, through a separate base rate increase at the time each unit is placed in service.

Subsequently, in Order No. PSC-14-0590-FOF-EI, the Commission granted DEF a determination of need for the Hines Chillers Uprate Project.<sup>2</sup> Intervening parties in that proceeding included the Office of Public Counsel (OPC), Florida Industrial Power Users Group (FIPUG), White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate (PCS Phosphate), Calpine Construction Finance Company, L.P. (Calpine), and NRG Florida, LP (NRG). The Commission weighed parties' arguments, evaluated the need for reliability and cost-effectiveness of various generation alternatives, and found that the Hines Chillers Uprate Project represented an optimal resource to meet DEF's needs prior to 2018.

The Hines Chillers Uprate Project consists of installation of chiller modules for the existing Hines Energy Center power block units, a large chilled water storage tank, an auxiliary power system, pumps and chilled water supply and return piping, and gas turbine air inlet chiller coils. The installation of the chiller system on the existing Hines Energy Center power block units (Hines Units 1 - 4) is designed to cool the gas turbine inlet air, thus increasing the capacity of each power block while maintaining fuel efficiency. Hines Units 1 - 4 have a total installed capacity of approximately 1,900 megawatts (MW). Based on Order No. PSC-14-0590-FOF-EI, the project is expected to increase the summer capacity of those units by approximately 220 MW to meet the summer peak demand, which DEF projected to grow to 9,439 MW by the summer of 2018.

The Commission has jurisdiction pursuant to Section 366.06, Florida Statutes.

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<sup>2</sup>Order No. PSC-14-0590-FOF-EI, issued October 21, 2014, in Docket No. 140111-EI, *In re: Petition for determination of cost effective generation alternative to meet need prior to 2018, by Duke Energy Florida, Inc.*

### Discussion of Issues

**Issue 1:** What is the appropriate amount of revenue requirement for the Hines Chillers Uprate Project?

**Recommendation:** The appropriate amount of revenue requirement for DEF's proposed phase 1 rate increase associated with the Hines Chillers Uprate Project is \$16,676,114. The phase 2 revenue requirement and rate increase should be addressed when DEF files a separate petition in August 2016. (Lee, Matthews, McNulty, Slemkewicz)

**Staff Analysis:** DEF is seeking to recover the full, prudently incurred revenue requirement for the Hines Chillers Uprate Project pursuant to Paragraph 16(a) of the RRSSA. The project will be implemented in two phases. DEF is requesting that the Commission approve the phase 1 revenue requirement of \$16,676,114 and phase 2 revenue requirement of \$2,915,328. However, it is only requesting approval for the rate increase associated with the phase 1 revenue requirement in this petition. The rate increase for phase 2 will be requested as part of a separate petition in August 2016.

#### Cost Estimates and Projected Performance

According to DEF witness Vann Stephenson's (Stephenson) direct testimony filed in this docket, the updated construction cost estimate for the Hines Chillers Uprate Project is approximately \$151 million. This is \$9 million less than the \$160 million estimate provided in Docket No. 140111-EI. In that proceeding, the Commission found the construction cost estimate comparable to a similar project installed at the Duke Energy Carolinas Dan River Combined Cycle project.

In addition, witness Stephenson's direct testimony addressed DEF's effort to execute the project efficiently by selecting an Engineering Procurement Construction (EPC) company by competitive bidding and by planning the construction in two phases to align with already scheduled maintenance outages for the Hines Units. The first phase, with an estimated cost of \$127 million for work on Hines Units 1-3 and the common equipment, is expected to be completed and placed into commercial service in October 2016. The second phase, with an estimated cost of \$24 million for the work for Hines Unit 4, is expected to be completed in January 2017. Based on DEF's response to staff's data request, cost incurred to date is \$101 million, with an estimated \$50 million for the project to be completed as planned.

Staff recognizes that the costs sought for recovery by DEF are still estimates at this time. Regarding the issue of a potential variance from the estimate, DEF stated in its response to staff's data request that there is no such provision for modification of the base rate adjustments under paragraph 16(a) of the RRSSA. Paragraph 16 of the RRSSA provides different treatments for units and uprates to existing units placed in-service and/or acquired/purchased prior to year-end 2017. While specific true-up provisions in a manner similar to cost recovery clauses are prescribed for the 2018 Generation Base Rate Adjustment (GBRA) factor under 16(b) through 16(f), there is not a true-up mechanism under paragraph 16(a) of the RRSSA.

Staff notes that even without such a true-up provision, costs will be reset in DEF's next general base rate case proceeding if actual costs for the Hines Chillers Uprate Project differ from what is approved in this docket.

In response to staff's data request, DEF provided an updated comparison of the current cost estimates with those provided in Docket No. 140111-EI. DEF also identified the variables that contributed to the total cost reduction, with the reduced costs mainly caused by the contingency and not design changes. DEF also provided an update of the projected performance, which is consistent with its projection in Docket No. 140111-EI. Staff recommends DEF has demonstrated that costs of the Hines Chillers Uprate Project are reasonable.

DEF is only requesting approval for the rate increase associated with the phase 1 revenue requirement in this petition. DEF expects to file its petition for the approval for the rate increase associated with phase 2 of the Hines Chiller Uprate Project and the Osprey acquisition revenue requirement in August 2016. The reason for this separate filing is based on the timing of the Osprey project, which is expected to come online in the same time period as phase 2 of the Hines Chiller Uprate Project. While the cost estimate is reasonable, as discussed earlier, staff recommends the phase 2 revenue requirement should be addressed in the upcoming separate docket because revenue requirements and rates are normally considered together.

### **Revenue Requirement**

Based on the estimated cost to complete phase 1 of the Hines Chillers Uprate Project, DEF calculated a revenue requirement of \$16,676,114.<sup>3</sup> In accordance with paragraph 16(a) of the RRSSA, DEF utilized the capital structure from its most recent actual earnings surveillance report<sup>4</sup> and a 10.50 percent return on equity to calculate the revenue requirement. The revenue requirement calculations also include the recovery of O&M expenses, depreciation expense, property insurance, and property tax. Staff has reviewed the revenue requirement calculations and believes they have been appropriately calculated.

### **Conclusion**

The appropriate amount of revenue requirement for DEF's proposed phase 1 rate increase associated with the Hines Chillers Uprate Project is \$16,676,114. The phase 2 revenue requirement and rate increase should be addressed when DEF files a separate petition in August 2016.

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<sup>3</sup> Exhibit B, P. 1 of 2, of Document No. 03105-16 (DEF's Petition).

<sup>4</sup> March 2016 Earnings Surveillance Report.

**Issue 2:** Should the Commission approve DEF's proposed tariffs and associated charges?

**Recommendation:** Yes. If the Commission approves Issue 1, the proposed tariffs and associated charges should go into effect with the first billing cycle in November 2016. If the Commission order is protested, DEF should be allowed to implement the rates subject to refund pending the results of any subsequent proceeding. (Guffey)

**Staff Analysis:** As discussed in Issue 1, DEF has proposed to increase its base rates by \$16,676,114. DEF allocated this amount to all its rate classes at a uniform percentage (0.99 percent) as shown in Exhibit C of the petition consistent with the terms of the RRSSA. A residential customer who uses 1,000 kilowatt-hours will see a \$0.50 increase on the monthly bill. The proposed tariffs are shown in Exhibit E of the petition.

In response to staff's first data request, DEF stated that customers will be notified of the rate changes via October bill inserts, DEF website and via email for electronic bill customers.

DEF has requested that the proposed tariffs go into effect with the first billing cycle in November 2016. Staff has reviewed the proposed tariffs, calculation of the revised base rate charges and DEF's responses to data requests and recommends that they be approved. If the Commission order is protested, DEF should be allowed to implement the rates subject to refund pending the results of any subsequent proceeding.

**Issue 3:** Should this docket be closed?

**Recommendation:** Yes. If Issues 1 and 2 are approved, the tariff should go into effect with the first billing cycle in November 2016. If a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Janjic)

**Staff Analysis:** If Issues 1 and 2 are approved, the tariff should go into effect with the first billing cycle in November 2016. If a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.



# 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:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Engineering (Hill, King) *W TO*  
Division of Accounting and Finance (Cicchetti, Vogel) *MC*  
Division of Economics (Bruce, Hudson) *W*  
Office of the General Counsel (Corbari) *W*

**RE:** Docket No. 150149-WS – Application for staff-assisted rate case in Glades and Highlands Counties by Silver Lake Utilities, Inc. *CM fix key*

**AGENDA:** 08/09/16 – Proposed Agency Action – Except for Issue Nos. 11, 12, and 13 – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** 10/20/2016 (15-Month Effective Date (SARC))

**SPECIAL INSTRUCTIONS:** None

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## Case Background

Silver Lake Utilities, Inc. (Silver Lake or Utility) is a Class C utility<sup>1</sup> providing water service to approximately 39 residential and 23 general service customers. The majority of the property in the Utility's service territory is owned by Lykes Bros, Inc., and thus the Utility serves primarily related parties. Silver Lake is located in the South Florida Water Management District (SFWMD). Water rates were last established for Silver Lakes in 2007 when it was certificated.<sup>2</sup> Silver Lake had two amendments to its territory in 2008 and 2009, expanding water and wastewater service in Highlands County.<sup>3</sup>

On May 26, 2015, Silver Lake Utilities, Inc. filed an application for a Staff Assisted Rate Case (SARC). Staff selected the test year ended March 31, 2015, for the instant case. According to Silver Lake's 2014 annual report, its total operating revenues for water was \$43,080, and reported a net loss of \$176,636.<sup>4</sup>

On January 1, 2016, staff filed a preliminary recommendation (Staff Report) pending further review of this case. A customer meeting was subsequently held on February 11, 2016, at the Brighton Ranch Office in Okeechobee, Florida, to receive customer questions and comments concerning the Utility's rate case and quality of service. No customers attended the meeting.

On February 8, and April 11, 2016, the Office of Public Counsel (OPC) filed letters outlining its concerns with the Staff Report. The Commission has jurisdiction in this case pursuant to Section 367.0814, Florida Statutes, (F.S.).

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<sup>1</sup>Section 367.021(12), F.S., defines "Utility" as "a water or wastewater utility and, except as provided Section 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation."

<sup>2</sup>Order No., PSC-07-0983-PAA-WS, issued December 10, 2007, in Docket No. 060726-WU, *In re: Application for certificates to provide water and wastewater service in Glades County and water service in Highlands County by Silver Lake Utilities, Inc.*

<sup>3</sup>Order Nos., Public Service Commission-08-0520-FOF-WU, issued August 12, 2008, in Docket No. 080213-WU, *In re: Application for amendment of Certificate 636-W to extend water service area in Highlands County by Silver Lake Utilities, Inc.*, and PSC-09-0086-FOF-SU, issued February 9, 2009, in Docket No. 080613-SU, *In re: Application for amendment of Certificate No. 546-S to extend certain areas in Highlands County by Silver Lake Utilities, Inc.*

<sup>4</sup>Silver Lake Utilities, Inc. 2014 Annual Report filed April 28, 2015, <http://www.floridapsc.com/library/financials/WS907-DOCS/ANNUAL-REPORTS/WS907-14-AR.PDF>.

## Discussion of Issues

**Issue 1:** Is the quality of service provided by Silver Lake Utilities, Inc. satisfactory?

**Recommendation:** Yes. The overall quality of service provided by Silver Lake Utilities, Inc. should be considered satisfactory. (Hill)

**Staff Analysis:** Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), in water and wastewater rate cases, the Commission must determine the overall quality of service provided by a utility, which is derived from an evaluation of three separate components of the utility's operations. These components are: (1) the quality of the utility's product; (2) the operating conditions of the utility's plant and facilities; and (3) 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 that the Commission consider the extent to which the utility provides water service that meets secondary water quality standards as established by the DEP.

Silver Lake's service area is located near Okeechobee, Florida, in Highlands and Glades Counties within the South Florida Water Management District. The Utility's water system provides finished water that is obtained from 26 systems with 28 wells.

### Quality of Utility's Product

Staff's evaluation of Silver Lake'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 also considered the Utility's compliance with local health departments.

Staff reviewed the most recent chemical analyses for Silver Lake's systems that are regulated by DEP (Brighton Ranch Office, Lake Placid, and Buckhorn Housing). All results complied with the DEP primary and secondary water quality standards. Additionally, Silver Lake is not currently under citation by the Highlands County or Glades County health departments.

No complaints regarding the quality of Silver Lake's product have been filed with the Commission. Staff also 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 the quality of Silver Lake's product during the period requested.

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

### **Operating Condition of the Utility's Plant and Facilities**

Staff's evaluation of Silver Lake's facilities included a review of the Utility's compliance standards of operation as well as a site visit. Staff reviewed the Utility's most recent DEP sanitary survey reports, for Brighton Ranch Office, Lake Placid, and Buckhorn Housing. The DEP found no deficiencies and determined that the system to be in compliance with its rules and regulations. Currently, Silver Lake is not under citation by the Highlands County or Glades County health departments. Staff did not identify any issues or concerns during its February 11, 2016, site visit of the Utility. Therefore, the operating condition of Silver Lake's water treatment plants and facilities should be considered satisfactory.

### **The Utility's Attempt to Address Customer Satisfaction**

Staff reviewed the Commission's complaint records from April 1, 2011, through July 12, 2016, and found no complaints. Staff also requested copies of complaints filed with the Utility during the test year and four years prior to the test year. Silver Lake responded that no complaints had been filed during the test year and four years prior to the test year.<sup>5</sup> Staff also requested complaints against the Utility filed with the DEP for the test year and four years prior. The DEP did not indicate it had received any complaints against Silver Lake during the time frame. A customer meeting was held in the service territory on February 11, 2016. No customers attended the meeting, and no customers have provided correspondence in this docket. Given that there have been no customer complaints during staff's period of review, the Utility's attempt to address customer satisfaction should be considered satisfactory.

### **Conclusion**

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

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<sup>5</sup>Document No. 05185-15, filed August 20, 2015.

**Issue 2:** What are the used and useful percentages (U&U) of Silver Lake Utilities, Inc. water treatment plant and distribution system and storage?

**Recommendation:** Staff recommends that Silver Lake Utilities, Inc.'s water treatment plant (WTP) should be considered 75.62 percent U&U and its distribution systems should be considered 100 percent U&U. There appears to be no excessive unaccounted for water (EUW), therefore, staff is not recommending an adjustment be made to operating expenses for chemicals and purchased power. (Hill)

**Staff Analysis:** Silver Lake's water system is served by 28 total wells rated at a combined 856 gallons per minute (gpm). Water treatment varies by system based on quality of the groundwater. Water is treated by chlorination in 16 of the systems, by aeration in 5 of the systems, with a water softener in 3 of the systems, with a carbon filter in 3 of the systems, by ozone in 2 of the systems, and via reverse osmosis provided on the customer's side for 1 system. Eight of these systems are required to be permitted either by the DEP or the SFWMD, and have a combined permitted capacity of 0.17 million gallons per day (MGD). There are no fire hydrants served by the systems. Analysis of the provided data indicates there has been no growth to the system in the past five years.

#### **Water Treatment Plant Used & Useful**

The capacity of each WTP is separately rated. Pursuant to Rule 25-30.4325(4), F.A.C., a water treatment system with one well is 100 percent used and useful. Twenty-four of the 26 systems have one well each, and therefore, should be considered 100 percent used and useful. In calculating the Firm Reliable Capacity (FRC) of a water system served by multiple wells, the pumping capacity of the wells, excluding the largest well for those systems with more than one well, is considered the FRC. The two systems with more than one well each are the Brighton Ranch Office WTP and the Brighton Grove Office WTP.

The U&U calculation for a WTP is  $((\text{Max Day} - \text{EUW} + \text{Fire Flow} + \text{Growth})/\text{FRC})$ . Brighton Ranch Office WTP has an FRC of 25 gpm based on the smallest well. The maximum daily usage for the test year was 4,300 gallons on April 28, 2014.<sup>6</sup> It does not appear that there was a line break or unusual occurrence on that day. This results in a peak demand (Max Day) of 5.97 gpm  $((4,300 / 1,440) * 2)$ .<sup>7</sup> There is no EUW and there is no Fire Flow. The Growth in connections appears to be zero. The resulting U&U calculation for Brighton Ranch Office is 23.9 percent  $((5.97 + 0 + 0 + 0) / 25)$ .

Silver Lake's Brighton Grove Office WTP has an FRC of 22 gpm based on the smallest well. The peak hour demand is calculated as 7.7 gpm.<sup>8</sup> There is no EUW and there is no fire flow. The

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<sup>6</sup>Document No. 05185-15, filed August 20, 2015.

<sup>7</sup>Per Rule 25-30.4325(7)(a)(1), F.A.C., Water Treatment and Storage Used and Useful Calculations

<sup>8</sup>Per Rule 25-30.4325(7)(a)(2), F.A.C., Water Treatment and Storage Used and Useful Calculations. (Peak hour demand, expressed in gallons per minute, shall be calculated as 1.1 gallons per minute per equivalent residential connection if the actual maximum day flow data is not available). This system is not regulated by DEP and thus daily flow data is not required to be kept and is unavailable.

growth in connections appears to be zero. The resulting U&U calculation for Brighton Grove Office is 35 percent  $((7.7 + 0 + 0 + 0) / 22)$ .

In its letter dated April 11, 2016, OPC submitted that it would be more appropriate to weigh the U&U percentages for these two systems based on their contribution to the Utility Plant in Service (UPIS) balance. Staff agrees that a weighted average using UPIS contribution is a reasonable method for calculating U&U as it accounts for the investment associated with the individual plants. This methodology differs from that used in the Staff Report, which used a weighted average using ERC contribution and resulted in a U&U of 91 percent. The 24 single-well systems, which are considered 100 percent U&U, combined with the Brighton Ranch Office U&U and the Brighton Grove Office U&U produce an overall value of 75.62 percent U&U for water treatment plant.<sup>9</sup> The updated calculation is shown in Table 1 below.

**Table 1 Summary of WTP U&U**

System Name	U&U	UPIS Contribution*	UPIS U&U Contribution
Brighton Grove Office WTP	35.00%	\$105,265.80	\$36,843.03
Brighton Ranch Office WTP	23.90%	\$236,097.80	\$56,427.37
All other systems	100%	\$676,436.00	\$676,436.00
Overall Used and Useful	75.62%	\$1,017,800.00	\$769,706.40

Source: Plant accounts, net of depreciation, per audit.

### **Excessive Unaccounted for Water**

Rule 25-30.4325, 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 a 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.

The Monthly Operating Reports (MORs) that Silver Lake files with DEP, and the operational records Silver Lake provides for non-DEP systems, indicate an unaccounted for water value of 8 percent. Therefore, there appears to be no EUW to be considered, and staff recommends that no adjustment be made to operating expenses for chemicals and purchased power due to the EUW.

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<sup>9</sup>Overall WTP U&U is calculated based on a weighted average which accounts for the relative size of each system (based on asset allocation, e.g. Brighton Ranch accounts for 23.2 percent of the Utility plant in service) and the U&U percentage for each system.



**Distribution System Used & Useful**

There has been no growth in Silver Lake's service area in the past five years and there are no plans for additional development in the immediate future; therefore, pursuant to Rule 25-30.4325(4), F.A.C., the transmission and distribution lines should be considered 100 percent U&U.

**Conclusion**

Staff recommends that Silver Lake's WTP should be considered 75.62 percent U&U and its distribution systems should be considered 100 percent U&U. There appears to be no EUW; therefore, staff is not recommending an adjustment be made to operating expenses for chemicals and purchased power.

**Issue 3:** What is the appropriate average test year rate base for Silver Lake Utilities, Inc.?

**Recommendation:** The appropriate average test year rate base for Silver Lake Utilities, Inc. is \$519,781. (Vogel)

**Staff Analysis:** Order No. PSC-07-0983-PAA-WS,<sup>10</sup> reflected the development of the Muse Village project. However, this project has not yet occurred. The test year ended March 31, 2015, was used for the instant case. A summary of each rate base component and recommended adjustments are discussed below.

### **Utility Plant in Service (UPIS)**

Silver Lake recorded UPIS of \$1,246,881. The commission audit noted exceptions to the Utility's UPIS balances. Commission audit staff compiled all subsequent plant additions and retirements. Staff is recommending decreasing UPIS by \$57,525, to remove plant that is being held for future use associated with the Muse Development. Staff is recommending increasing UPIS by \$4,400, to capitalize two plant additions (\$1,805 + \$2,595) that were originally placed in Operation & Maintenance (O&M) expenses. Staff has increased UPIS by \$2,694, to include pro forma plant additions made after the test year along with the appropriate retirements. Staff has also decreased UPIS by \$3,547, to include an averaging adjustment. Staff's adjustments to UPIS result in a net decrease of \$53,978. Therefore, staff recommends that the appropriate UPIS balance is \$1,192,903.

The OPC raised concerns over the utility's 2009 water treatment plant acquisitions totaling \$644,747. The utility explains in a May 27, 2016 response, that the Seminole Tribe of Florida once served two systems, the Brighton Ranch and the Brighton Grove. The Seminole Tribe of Florida decided to construct a new public water supply which drastically increased the costs to Lykes Bros., Inc. for water service to these areas.

Other systems were acquired or constructed to expand the utility's territory, including one to "serve a new commercial/industrial facility in Palmdale." The 2009 acquisitions allow Silver Lake to lower costs to all of these affected systems. Therefore, staff believes the 2009 acquisitions are prudent.

### **Land & Land Rights**

Silver Lake did not record a test year land value. The Utility does not own any land on which the plant operates and all land is used through land lease contracts with Lykes Bros., Inc. approved by Order No. PSC-07-0983-PAA-WS.<sup>11</sup> Based on staff's review, no adjustments are necessary. Therefore, staff recommends that the appropriate land balance is \$0.

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<sup>10</sup>Order No. PSC-07-0983-PAA-WS, issued December 10, 2007, in Docket No. 060726-WS, *In re: Application for certificates to provide water and wastewater service in Glades County and water service in Highlands County by Silver Lake Utilities Inc.*

<sup>11</sup>*Id.*

### **Non-Used and Useful (non-U&U) Plant**

As discussed in Issue 2, staff is recommending a U&U adjustment. As a result of this adjustment, staff recommends an increase to non-U&U plant of \$184,555. Staff is also recommending a decrease for non-U&U accumulated depreciation of \$78,414. Therefore, staff recommends a net increase of \$106,141 to non-U&U plant.

### **Contributions In Aid of Construction (CIAC)**

Silver Lake did not record a CIAC balance for the test year; however, it did include a CIAC account balance in its original certificate 2006 filing. This account includes all Transmission and Distribution lines. Staff is recommending an increase to CIAC of \$248,963, to include Transmission and Distribution lines. Therefore, staff's recommended CIAC balance is \$248,963.

### **Accumulated Depreciation**

Silver Lake recorded a test year accumulated depreciation balance of \$484,818. Silver Lake used the depreciation rates of a Class B utility because it expected to grow beyond that of a Class C; however this growth has not yet occurred. Class B rates were being used before the 2009 additions. However, at that time, Class C rates would be applied to the new additions and the utility and their accounting firm believed it would be easier to continue under Class B rates for all systems. In an email dated June 30, 2011, Mr. Shoemaker states that Commission staff deemed the Class B rates as acceptable. Staff believes the use of Class B depreciation rates is acceptable for this utility and does not recommend the use of Class C depreciation rates.

Staff recalculated accumulated depreciation using the prescribed rates set forth in Rule 25-30.140, F.A.C., and depreciation associated with plant additions and retirements. Staff increased accumulated depreciation by \$6,724, to reflect the appropriate accumulated depreciation. Staff also recommends increasing accumulated depreciation by \$639, to include pro forma plant and retirements associated with the pro forma items requested by Silver Lake. Staff decreased accumulated depreciation by \$19,938, for an averaging adjustment. Staff's total adjustments to accumulated depreciation result in a net decrease of \$12,575. Therefore, staff recommends an accumulated depreciation balance of \$472,244.

### **Accumulated Amortization of CIAC**

Silver Lake did not record accumulated amortization of CIAC. As stated above, staff is recommending an increase in CIAC for the Utility. To account for this increase, staff is recommending an increase in accumulated amortization of CIAC in the amount of \$134,852. Therefore, staff's recommended accumulated amortization of CIAC balance is \$134,852.

### **Working Capital Allowance**

Working capital is defined as the short-term investor-supplied funds that are necessary to meet operating expenses. Consistent with Rule 25-30.433(2), F.A.C., staff used the one-eighth of the O&M expense formula approach for calculating the working capital allowance. Applying this formula, staff recommends a working capital allowance of \$19,373 (based on O&M expense of \$154,987/8).

**Rate Base Summary**

Based on the foregoing, staff recommends that the appropriate average test year water rate base for Silver Lake is \$519,781. Water rate base is shown on Schedule No. 1-A, and 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 Silver Lake Utilities, Inc.?

**Recommendation:** The appropriate return on equity (ROE) for Silver Lake is 10.58 percent, with a range of 9.58 percent to 11.58 percent, and the appropriate overall rate of return is 6.54 percent. (Vogel)

**Staff Analysis:** According to the Commission audit, Silver Lake's test year capital structure reflected common equity of \$370,892 and long-term debt of \$424,000.

Silver Lake's capital structure has been reconciled with staff's recommended rate base. The appropriate ROE for the Utility is 10.58 percent based upon the Commission-approved leverage formula currently in effect.<sup>12</sup> Staff recommends an ROE of 10.58 percent, with a range of 9.58 percent to 11.58 percent, and an overall rate of return of 6.54 percent. The ROE and overall rate of return are shown on Schedule No. 2.

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<sup>12</sup>Order No. PSC-16-0254-PAA-WS, issued June 29, 2016, 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 Silver Lake Utilities, Inc. water system?

**Recommendation:** The appropriate test year revenues for Silver Lake Utilities, Inc.'s water system are \$47,162. (Bruce)

**Staff Analysis:** Silver Lake recorded total test year revenues of \$43,397, which consists of only service revenues. During the test year, Silver Lake charged its citrus division the utility's approved base facility charge for a 3" meter and \$0.91 per 1,000 gallons for raw water irrigation service. However, the utility's tariff for raw water irrigation service is designed for bulk raw water service and includes a fixed base charge of \$5,500 based on a minimum demand of 500,000 gallons per month, in addition to the gallonage charge of \$0.91 per 1,000 gallons. The general service potable water rate includes a base facility charge based on meter size and a gallonage charge of \$3.79 per 1,000 gallons. Additionally, there was a discrepancy in the amount of gallons billed and the amount of gallons sold in the billing analysis. Staff corrected Silver Lake's billing determinants, applied the rates that were in effect during the test year, and determined that the service revenues should be increased by \$3,765. As discussed in Issue 8, on a going-forward basis, staff is recommending a new tariff charge for non-bulk raw water customers. Based on the above, staff recommends that the appropriate amount of test year revenues for Silver Lake's water system is \$47,162.

**Issue 6:** What is the appropriate amount of operating expense for Silver Lake Utilities, Inc.?

**Recommendation:** The appropriate amount of operating expense for Silver Lake Utilities, Inc. is \$201,132. (Vogel)

**Staff Analysis:** Silver Lake Utilities, Inc. recorded operating expense of \$201,343 for the test year ended March 31, 2015. Staff reviewed the test year O&M expenses, including invoices, canceled checks, and other supporting documentation, and made several adjustments to the Utility's operating expenses as summarized below.

### **Operation and Maintenance Expenses**

#### ***Purchased Water (610)***

Silver Lake recorded Purchased Water expense of \$1,256. This expense is related to the royalties required in the land lease contracts. Staff increased this amount by \$108, to include an invoice from December of the test year. Therefore, staff recommends Purchased Water expense of \$1,364.

#### ***Purchased Power (615)***

The Utility recorded Purchased Power expense of \$6,364. Staff increased this amount by \$47, to include an invoice not previously included. Staff also increased this account by \$96, to reclassify invoices from Account 618. Staff's total adjustments result in an increase of \$143. Therefore, staff recommends Purchased Power expense of \$6,507.

#### ***Chemicals (618)***

The Utility recorded Chemicals expense of \$2,326. Staff decreased this account by \$96, to remove invoices reclassified to Account 615. Staff increased this account by \$113, to include an invoice not previously included. Staff also decreased this account by \$107, to remove an invoice not supported. Staff's adjustments result in a net decrease of \$90 to Chemicals expense. Therefore, staff recommends Chemicals expense of \$2,236.

#### ***Materials and Supplies (620)***

Silver Lake recorded Materials and Supplies expense of \$14,757. Staff recommends decreasing this account by \$1,805, to capitalize a plant addition into Account 331. Staff also recommends decreasing this account by \$2,595, to capitalize a plant addition into Account 336. Staff's adjustments result in a decrease of \$4,400 to Materials and Supplies expense. The resulting recommended amount for Materials and Supplies expense is \$10,357.

#### ***Contractual Services - Management (634)***

Silver Lake recorded Contractual Services – Management expense of \$42,177. This expense includes both management expense and office support for the Utility's operations. OPC disagreed with this account balance in its February 8, 2016 letter. Staff believes that due to the physical size of the Utility's service territory, 350,000 acres, and the remote locations of many of the facilities, this expense is prudent and necessary to operate the Utility. Staff recommends Contractual Services – Management expense of \$42,177.

**Contractual Services - Testing (635)**

Silver Lake recorded Contractual Services – Testing expense of \$6,346. Staff believes this expense is prudent due to the large number of wells the Utility maintains. Staff recommends Contractual Services – Testing expense of \$6,346.

**Contractual Services - Other (636)**

The Utility recorded Contractual Services – Other expense of \$37,177. This expense includes all contractual maintenance expenses for the Utility. OPC disagreed with this account balance in its February 8, 2015 letter. Staff believes that due to the physical size of the Utility’s service territory, 350,000 acres, and the remote locations of many of the facilities, this expense is prudent and necessary to operate the Utility. Staff decreased this account by \$720, to amortize the non-recurring expense of \$900 over a five year period. The resulting recommended amount for Contractual Services – Other expense is \$36,457.

**Rent of Buildings and Property (640)**

Silver Lake recorded Rental of Buildings and Property expense of \$44,095, which includes the land lease contracts for twenty-five well sites and office space. OPC does not believe this expense is reasonable. However, in Order No. PSC-07-0717-FOF-WS,<sup>13</sup> the Commission approved these contracts as prudent. Staff does not believe any adjustment should be made to this account at this time, and staff recommends Rental of Buildings and Property expense of \$44,095.

**Regulatory Commission Expense (665)**

The Utility recorded no Regulatory Commission expense for the test year. By Rule 25-30.0407, F.A.C., the Utility is required to mail notices of the customer meeting and notices of final rates in this case to its customers. For these notices, staff estimated \$59 for postage expense, \$44 for printing expense, and \$6 for envelopes. These amounts result in \$109 for postage, printing notices, and envelopes. Additionally, Silver Lake paid a \$1,000 rate case filing fee and received legal counsel from Mr. Martin Friedman throughout the course of this case. Staff recommends including these legal fees in the amount of \$9,051. Based on the above, staff recommends a total rate case expense of \$10,160, which amortized over four years is \$2,540 annually. Staff recommends Regulatory Commission expense of \$2,540.

**Miscellaneous Expense (675)**

Silver Lake recorded Miscellaneous expense of \$2,908 for the test year. Staff does not believe any adjustments should be made to this account at this time, and staff recommends Miscellaneous Expense of \$2,908.

**Operation and Maintenance Expenses Summary**

Based on the above adjustments, staff recommends that the O&M expenses are \$154,987. Staff’s recommended adjustments to O&M expense are shown on Schedule No. 3-A.

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<sup>13</sup>Order No. 07-0717-FOF-WS, issued September 7, 2007, in Docket No. 060726-WS, *In re: Application for certificates to provide water and wastewater service in Glades County and water service in Highlands County by Silver Lake Utilities, Inc.*



### **Depreciation Expense (Net of Amortization of CIAC)**

Silver Lake recorded Depreciation expense during the test year of \$40,778. Staff recalculated Depreciation expense using the prescribed rates set forth in Rule 25-30.140, F.A.C. As a result, staff decreased Depreciation expense by \$130, to reflect the appropriate Depreciation expense. Also, staff decreased Depreciation expense by \$7,242, to reflect the non-U&U portion of Depreciation expense. Staff's total adjustments to Depreciation expense result in a decrease of \$7,372. Therefore, staff recommends Depreciation expense of \$33,406.

### **Taxes Other Than Income (TOTI)**

Silver Lake recorded a TOTI balance of \$3,159. Staff increased TOTI by \$1,109, to reflect the appropriate test year property taxes. Staff also increased TOTI by \$143, to reflect the appropriate Regulatory Assessment Fees. Staff increased TOTI by \$41, to include the property tax for the new pro forma plant addition. Lastly, staff decreased TOTI by \$171 to reflect the non-U&U portion of TOTI. Staff's adjustments result in an increase of \$1,122.

In addition, as discussed in Issue 7, revenues were increased by \$187,964, to reflect the change in revenue required to cover expenses and allow the recommended return on investment. As a result, TOTI should be increased by \$8,458 to reflect RAFs of 4.5 percent on the change in revenues. Therefore, staff recommends TOTI of \$12,739 ( $\$3,159 + \$1,122 + \$8,458$ ).

### **Operating Expenses Summary**

The application of staff's recommended adjustments to Silver Lake's test year operating expenses results in operating expenses of \$201,132. Operating expenses are shown on Schedule No. 3-A, and the related adjustments are shown on Schedule Nos. 3-B and 3-C.

**Issue 7:** What is the appropriate revenue requirement for Silver Lake Utilities, Inc.?

**Recommendation:** The appropriate revenue requirement for Silver Lake Utilities, Inc. is \$235,126, resulting in an annual increase of \$187,964 (398.55 percent). (Vogel)

**Staff Analysis:** Silver Lake Utilities, Inc. should be allowed an annual increase of \$187,964 (398.55 percent), which will allow the Utility the opportunity to recover its expenses and earn a 6.54 percent return on its water system. The calculation is shown in Table 7-1 below.

**Table 7-1  
Water Revenue Requirement**

Adjusted Rate Base	\$519,781
Rate of Return	<u>x 6.54%</u>
Return on Rate Base	\$33,994
Adjusted O&M Expense	154,987
Depreciation Expense (Net)	33,406
Taxes Other Than Income	4,281
Test Year RAFs	<u>8,458</u>
Revenue Requirement	\$235,126
Less Adjusted Test Year Revenues	<u>47,162</u>
Annual Increase	<u>\$187,964</u>
Percent Increase	<u>398.55%</u>

Silver Lake Utilities, Inc. is 100 percent owned by Lykes Bros. Inc. and currently serves 62 customers, all but one of these customers are affiliated with Lykes Bros. Inc. and the customer bills are paid by the divisions of the parent company. The only customer not directly affiliated with Lykes Bros. Inc. is Brighton Baptist Church. In a response to a staff data request, filed March 1, 2016, Silver Lake stated, "the church pays their monthly bill and, upon receipt, Lykes makes a monthly donation to the church in the amount of the bill." Staff believes an increase will not negatively affect any ratepayers not affiliated with Lykes Bros. Inc. and compensatory rates should be approved.

OPC has voiced concerns about the level of revenues based on the amount of customers currently served by the Utility and the possibility of overearnings if the Utility expanded. Silver Lake planned a large development in its service area when it filed for its certificates in 2006. Since 2006, Silver Lake did not experience the anticipated large growth and all but one of its current customers is affiliated with the Utility's parent company as mentioned above.

Date: July 28, 2016

In response to data requests, Silver Lake stated that it does not plan to expand in the immediate future, as the Muse Village development is currently on hold. Due to the Utility's current operating loss of \$150,210, staff recommends compensatory rates be approved. Any expansion or overearning concerns would be detected and addressed when the Utility files its required annual reports.

**Issue 8:** What is the appropriate rate structure and rates for Silver Lake Utilities, Inc. water system?

**Recommendation:** The recommended rate structure and monthly water rates for Silver Lake Utilities, Inc. 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 sheets 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. Silver Lake Utilities, Inc. should provide proof of the date notice was given within 10 days of the date of the notice. (Bruce)

**Staff Analysis:**

**Water Rates**

Silver Lake's service territory is located in the SFWMD. The majority of the property in the Utility's service territory is owned by Lykes Bros Inc. The property is used primarily for cattle ranching, citrus, timber, sugar cane production, and employee housing. The Utility provides water only service to 39 residential, 23 general service customers, as well as a raw water irrigation customer.

Staff's analysis of the Utility's billing data indicates that approximately 1 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 5,378 gallons per month. Currently, the water system rate structure for residential customers consists of a base facility charge (BFC) and a two-tier inclining block rate structure. The rate blocks are: (1) 0-5,000 gallons and (2) all usage in excess of 5,000 gallons per month. General service customers are billed a BFC based on meter size and a uniform gallonage charge. Silver Lake's existing BFC generates approximately 47 percent of the Utility's water revenues. Silver Lake does not have an approved tariff for non-bulk raw water irrigation service. Silver Lake has tariffed rates for bulk raw water and bulk treated water; however, it does not have any current customers for these services.

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; and 3) implement, where appropriate, water conserving rate structures consistent with Commission practice.

As discussed in Issue 7, the recommended revenue requirement increase for Silver Lake is 398.55 percent. When there is such a significant increase in revenues, staff would typically recommend a repression adjustment. However, in this instance, the customers' bills are paid by the owner of the Utility rather than the customers. Since the customers do not pay for their water service, there would be no pricing signals sent to the customers for conservation efforts. As a result, staff believes it is appropriate to keep the existing rate structure for residential customers and no alternative rate structures have been provided. General service and irrigation rates should be designed to include a BFC and uniform gallonage charge. The raw water irrigation service

gallage charge should be designed to recognize the reduction in cost associated with chemicals and electricity.

Silver Lake's existing rates for bulk treated and raw water services, which were approved in the original certificate docket, were designed based on dedicated facilities with minimum take or pay rates. As previously discussed, the Utility does not currently have bulk customers and those facilities have not been constructed. Staff recommends that the existing bulk potable and raw water service rate be continued. The rates should be reevaluated in the Utility's subsequent rate case.

### **Summary**

For the reasons outlined above, staff recommends continuation of the existing water system rate structure for residential customers, which consists of a BFC and a two-tier inclining block rate structure. The rate blocks are: (1) 0-5,000 gallons and (2) all usage in excess of 5,000 gallons per month. Staff recommends that general service and raw water irrigation customers be billed based on a BFC and a uniform gallage charge. Staff recommends that the raw water irrigation gallage charge should exclude the cost of chemicals and electricity. The existing bulk potable and raw water rates should be continued.

The recommended rate structure and monthly water rates for Silver Lake Utilities, Inc. 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 sheets 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. Silver Lake Utilities, Inc. should provide proof of the date notice was given within 10 days of the date of the notice.

**Issue 9:** Should Silver Lake Utilities, Inc. existing service availability charges be revised, and if so, what are the appropriate charges?

**Recommendation:** No. The appropriate service availability charges are the Silver Lake Utilities, Inc.'s existing charges for the water system. (Bruce)

**Staff Analysis:** Silver Lake's existing service availability charges were last established in Docket No. 060726-WS<sup>14</sup>. The main extension charge is \$4,406 per equivalent residential connection (ERC). The plant capacity charge for water is \$2,200 per ERC. Silver Lake also has approved bulk raw water and bulk treated water plant capacity charges of \$875 and \$3,750 per ERC, respectively.

Rule 25-30.580, F.A.C., establishes guidelines for designing service availability charges. Pursuant to the rule, the maximum amount of contributions-in-aid-of construction (CIAC), net of amortization, should not exceed 75 percent of the total original cost, net of accumulated depreciation, of the Utility's facilities and plant when the facilities and plant are at their designed capacity. The minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution system at design capacity. Staff determined that the Utility's existing contribution level is 16 percent; however, the Utility's facilities are not at their design capacity. Staff believes the existing service availability charges are sufficient, within the guidelines of Rule 25-30.580, F.A.C., and recommends they remain unchanged at this time.

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<sup>14</sup>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 10:** What are the Utility's appropriate initial customer deposits for Silver Lake Utilities, Inc. water service?

**Recommendation:** The appropriate initial water customer deposit should be \$378 for the residential 5/8" x 3/4" 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 wastewater initial customer deposit should remain unchanged. The approved customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Silver Lake Utilities, Inc. should be required to charge the approved charges until authorized to change them by the Commission in a subsequent proceeding. (Bruce)

**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.<sup>15</sup> Currently, the initial water customer deposit is \$76 for 5/8" x 3/4" meter size and two times the average estimated bill for all other meters sizes. Based on the recommended water rates, the appropriate initial customer deposit for water should be \$378 for a residential customer with a 5/8" x 3/4" meter to reflect an average residential customer bill for two months.

Staff recommends the appropriate initial water customer deposit should be \$378 for the residential 5/8" x 3/4" 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 wastewater initial customer deposit should remain unchanged. The approved customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Silver Lake Utilities, Inc. should be required to charge the approved charges until authorized to change them by the Commission in a subsequent proceeding.

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<sup>15</sup>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:** What is the appropriate amount by which Silver Lake Utilities, Inc.'s rates should be reduced in four years after the published effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.?

**Recommendation:** Silver Lake Utilities, Inc.'s water rates should be reduced as shown on Schedule No. 4, 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., Silver Lake 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 the Utility 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. (Bruce, Vogel)

**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 rates. The reduction will reflect the removal of revenue associated with the amortization of rate case expense, the associated return in working capital, and the gross-up for RAFs. The total recommended reduction is \$2,682.

The water rates should be reduced as shown on Schedule No. 4 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., Silver Lake 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 the Utility 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 12:** Should the recommended rates be approved for Silver Lake Utilities, Inc. 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. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for Silver Lake Utilities, Inc. on a temporary basis, subject to refund with interest, in the event of a protest filed by a party other than the Utility. Silver Lake 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, Silver Lake should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by Silver Lake 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 Commission's Office of Commission Clerk, no later than the twentieth of each 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. (Vogel)

**Staff Analysis:** This recommendation proposes an increase in water 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 Silver Lake, staff recommends that the recommended rates be approved as temporary rates. Silver Lake 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 \$125,618. Alternatively, Silver Lake 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.
- 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 express approval 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 security, 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's Office of Commission Clerk, no later than the twentieth of each 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 13:** Should Silver Lake Utilities, Inc. be required to notify the Commission within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) associated with the Commission approved adjustments?

**Recommendation:** Yes. Silver Lake Utilities, Inc. should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. The Utility should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA accounts 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 deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days. (Vogel)

**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. The Utility should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA accounts 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 deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days.

**Issue 14:** Should this docket be closed?

**Recommendation:** No. Except for the granting of temporary rates in the event of protest, the four year rate reduction, and proof of adjustment of books and records, which are final actions, 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 Silver Lake and approved by staff, and Silver Lake has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively. (Corbari)

**Staff Analysis:** Except for the granting of temporary rates in the event of protest, the four year rate reduction, and proof of adjustment of books and records, which are final actions, 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 Silver Lake and approved by staff, and Silver Lake has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively.

<b>SILVER LAKE UTILITIES, INC.</b>		<b>SCHEDULE NO. 1-A</b>	
<b>TEST YEAR ENDED 03/31/15</b>		<b>DOCKET NO. 150149-WS</b>	
<b>SCHEDULE OF WATER RATE BASE</b>			
<b>DESCRIPTION</b>	<b>BALANCE PER UTILITY</b>	<b>STAFF ADJUSTMENTS TO UTIL. BAL.</b>	<b>BALANCE PER STAFF</b>
UTILITY PLANT IN SERVICE	\$1,246,881	(\$53,978)	\$1,192,903
LAND & LAND RIGHTS	0	0	0
NON-USED AND USEFUL COMPONENTS	0	(106,141)	(106,141)
CIAC	0	(248,963)	(248,963)
ACCUMULATED DEPRECIATION	(484,818)	12,575	(472,244)
AMORTIZATION OF CIAC	0	134,852	134,852
WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>19,373</u>	<u>19,373</u>
<b>WATER RATE BASE</b>	<b><u>\$762,063</u></b>	<b><u>(\$242,282)</u></b>	<b><u>\$519,781</u></b>

<b>SILVER LAKE UTILITIES, INC.</b>		<b>SCHEDULE NO. 1-B</b>
<b>TEST YEAR ENDED 03/31/15</b>		<b>DOCKET NO. 150149-WS</b>
<b>ADJUSTMENTS TO RATE BASE</b>		
		<b><u>WATER</u></b>
<b><u>UTILITY PLANT IN SERVICE</u></b>		
1.	To remove plant being held for Muse Development.	(\$57,525)
2.	To capitalize pumping equipment from Acct. 620.	1,805
2.	To capitalize backflow preventers from Acct. 620.	2,595
2.	To include pro forma plant additions and retirements.	2,694
2.	To reflect an averaging adjustment.	<u>(3,547)</u>
	Total	<u>(\$53,978)</u>
<b><u>NON-USED AND USEFUL PLANT</u></b>		
1.	To reflect non-used and useful plant.	(\$184,555)
2.	To reflect non-used and useful accumulated depreciation.	78,414
	Total	<u>(\$106,141)</u>
<b><u>CIAC</u></b>		
	To include the appropriate amount of CIAC.	<u>(\$248,963)</u>
<b><u>ACCUMULATED DEPRECIATION</u></b>		
1.	To reflect the appropriate Accumulated Depreciation.	(\$6,724)
2.	To reflect pro forma plant additions and retirements.	(639)
3.	To reflect an averaging adjustment.	19,938
	Total	<u>\$12,575</u>
<b><u>AMORTIZATION OF CIAC</u></b>		
	To include appropriate amount of Amortization of CIAC.	<u>\$134,852</u>
<b><u>WORKING CAPITAL ALLOWANCE</u></b>		
	To reflect 1/8 of test year O&M expenses.	<u>\$19,373</u>

SILVER LAKE UTILITIES, INC. TEST YEAR ENDED 03/31/15 SCHEDULE OF CAPITAL STRUCTURE							SCHEDULE NO. 2 DOCKET NO. 150149-WS		
CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUSTMENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUSTMENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST	
1. COMMON EQUITY	\$370,892	\$0	\$370,892	(\$36,656)	\$334,236	46.66%	10.58%	4.94%	
2. LONG-TERM DEBT	424,000	0	424,000	(41,904)	382,096	53.34%	3.00%	1.60%	
3. SHORT-TERM DEBT	0	0	0	0	0	0.00%	0.00%	0.08%	
4. PREFERRED STOCK	0	0	0	0	0	0.00%	0.00%	0.00%	
5. CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	2.00%	0.00%	
6. DEFERRED INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	
7. TOTAL	<u>\$794,892</u>	<u>\$0</u>	<u>\$794,892</u>	<u>(\$78,560)</u>	<u>\$716,332</u>	<u>100.00%</u>		<u>6.54%</u>	
RANGE OF REASONABLENESS						<u>LOW</u>	<u>HIGH</u>		
RETURN ON EQUITY						<u>9.58%</u>	<u>11.58%</u>		
OVERALL RATE OF RETURN						<u>6.07%</u>	<u>7.00%</u>		

SILVER LAKE UTILITIES, INC. TEST YEAR ENDED 03/31/15 SCHEDULE OF WATER OPERATING INCOME			SCHEDULE NO. 3-A DOCKET NO. 150149-WS		
	TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$43,397</u>	<u>\$3,765</u>	<u>\$47,162</u>	<u>\$187,964</u> 398.55%	<u>\$235,126</u>
<b>OPERATING EXPENSES:</b>					
2. OPERATION & MAINTENANCE	\$157,406	(\$2,419)	\$154,987	\$0	\$154,987
3. DEPRECIATION (NET)	40,778	(7,372)	33,406	0	33,406
4. TAXES OTHER THAN INCOME	3,159	1,122	4,281	8,458	12,739
5. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
6. TOTAL OPERATING EXPENSES	<u>\$201,343</u>	<u>(\$8,669)</u>	<u>\$192,674</u>	<u>\$8,458</u>	<u>\$201,132</u>
7. OPERATING INCOME/(LOSS)	<u>(\$157,946)</u>		<u>(\$145,472)</u>		<u>\$33,994</u>
8. WATER RATE BASE	<u>\$762,063</u>		<u>\$519,781</u>		<u>\$519,781</u>
9. RATE OF RETURN	<u>(20.73%)</u>		<u>(27.99%)</u>		<u>6.54%</u>



<b>SILVER LAKE UTILITIES, INC.</b>		<b>SCHEDULE NO. 3-B</b>
<b>TEST YEAR ENDED 03/31/15</b>		<b>DOCKET NO. 150149-WS</b>
<b>ADJUSTMENTS TO OPERATING INCOME</b>		
		<u><b>WATER</b></u>
	<b>OPERATING REVENUES</b>	
	To reflect the appropriate test year service revenues.	<u>\$3,765</u>
	<b>OPERATION AND MAINTENANCE EXPENSES</b>	
1.	Purchased Water (610) To include an invoice from December of test year.	<u>\$108</u>
2.	Purchased Power (615)	
	a. To include an invoice not previously included.	\$47
	b. To reclassify invoices from Acct. 618.	<u>96</u>
	Subtotal	<u>\$143</u>
3.	Chemicals (618)	
	a. To reclassify invoices from Acct. 615.	(\$96)
	b. To include invoices not previously included.	113
	c. To remove unsupported invoices for chemicals.	<u>(107)</u>
	Subtotal	<u>(\$90)</u>
4.	Material and Supplies (620)	
	a. To reclassify invoices from Acct. 331.	(\$1,805)
	b. To reclassify invoices from Acct. 336.	<u>(2,595)</u>
	Subtotal	<u>(\$4,400)</u>
5.	Contractual Services - Other (636) To remove amortization of a non-recurring expense.	<u>(\$720)</u>
6.	Regulatory Commission Expense (665)	
	a. To reflect 4-year amortization of filing fees and noticing expenses.	\$277
	b. To reflect 4-year amortization of legal fees and expenses.	<u>2,263</u>
	Subtotal	<u>\$2,540</u>
	<b>TOTAL OPERATION &amp; MAINTENANCE ADJUSTMENTS</b>	<u>(\$2,419)</u>
	<b>DEPRECIATION EXPENSE</b>	
	a. To reflect appropriate depreciation expense per Rule 25-30.140 F.A.C.	(\$130)
	b. To reflect non-used and useful depreciation expense.	<u>(7,242)</u>
	Subtotal	<u>(\$7,372)</u>
	<b>TAXES OTHER THAN INCOME</b>	
	a. To reflect the appropriate test year property taxes.	\$1,109
	b. To reflect the appropriate RAFs.	143
	d. To include pro forma property taxes	41
	c. To reflect non-used and useful property taxes.	(171)
	d. To reflect change in revenues with recommendation.	<u>8,458</u>
	Total	<u>\$9,580</u>

<b>SILVER LAKE UTILITIES, INC.</b>		<b>SCHEDULE NO. 3-C</b>	
<b>TEST YEAR ENDED 03/31/15</b>		<b>DOCKET NO. 150149-WS</b>	
<b>ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE</b>			
	<b>TOTAL PER UTILITY</b>	<b>STAFF ADJUST- MENTS</b>	<b>TOTAL PER STAFF</b>
(601) SALARIES AND WAGES - EMPLOYEES	\$0	\$0	\$0
(603) SALARIES AND WAGES - OFFICERS	0	0	0
(604) EMPLOYEE PENSIONS AND BENEFITS	0	0	0
(610) PURCHASED WATER	1,256	108	1,364
(615) PURCHASED POWER	6,364	143	6,507
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	2,326	(90)	2,236
(620) MATERIALS AND SUPPLIES	14,757	(4,400)	10,357
(630) CONTRACTUAL SERVICES - BILLING	0	0	0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	42,177	0	42,177
(633) CONTRACTUAL SERVICES - TESTING	6,346	0	6,346
(636) CONTRACTUAL SERVICES - OTHER	37,177	(720)	36,457
(640) RENTS	44,095	0	44,095
(650) TRANSPORTATION EXPENSE	0	0	0
(655) INSURANCE EXPENSE	0	0	0
(665) REGULATORY COMMISSION EXPENSE	0	2,540	2,540
(670) BAD DEBT EXPENSE	0	0	0
(675) MISCELLANEOUS EXPENSE	<u>2,908</u>	<u>0</u>	<u>2,908</u>
<b>TOTAL WATER O&amp;M EXPENSES</b>	<b><u>\$157,406</u></b>	<b><u>(\$2,419)</u></b>	<b><u>\$154,987</u></b>

<b>SILVER LAKE UTILITIES, INC.</b>		<b>SCHEDULE NO. 4</b>	
<b>TEST YEAR ENDED MARCH 31, 2015</b>		<b>DOCKET NO. 150149-WS</b>	
<b>MONTHLY WATER RATES</b>			
	<b>RATES AT TIME OF FILING</b>	<b>STAFF RECOMMENDED RATES</b>	<b>4 YEAR RATE REDUCTION</b>
<b><u>Residential, General Service, and Raw Water Irrigation</u></b>			
<b>Base Facility Charge by Meter Size</b>			
5/8" x 3/4"	\$19.05	\$86.36	\$0.94
3/4"	\$28.58	\$129.54	\$1.41
1"	\$47.63	\$215.90	\$2.35
1-1/2"	\$95.25	\$431.80	\$4.70
2"	\$152.40	\$690.88	\$7.53
3"	\$304.80	\$1,381.76	\$15.05
4"	\$476.25	\$2,159.00	\$23.52
6"	\$952.50	\$4,318.00	\$57.42
<b>Charge per 1,000 gallons - Residential Service</b>			
0-5,000 gallons	\$3.79	\$19.16	\$0.21
Over 5,000 gallons	\$6.46	\$32.58	\$0.35
<b>Charge per 1,000 gallons - General Service</b>			
	\$3.79	\$21.98	\$0.24
<b>Charge per 1,000 gallons - Raw Water Irrigation Service</b>			
		\$19.54	\$0.21
<b><u>Bulk Raw Water Service</u></b>			
Base Facility Charge (2,000 ERCs)	\$5,500.00	\$5,500.00	
Charge per 1,000 gallons - Bulk Raw Water Service	\$0.91	\$0.91	
Minimum 500,000 gpd take or pay			
<b><u>Bulk Treated Water Service</u></b>			
Base Facility Charge (1,400 ERCs)	\$21,532.00	\$21,532.00	
Charge per 1,000 gallons - Bulk Treated Water Service	\$3.72	\$3.72	
Minimum 350,000 gpd take or pay			
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>			
3,000 Gallons	\$30.42	\$143.84	
5,000 Gallons	\$38.00	\$182.16	
10,000 Gallons	\$70.30	\$345.06	

# 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:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Engineering (Hill, Graves, King) *REG TJS BS*  
Division of Accounting and Finance (Fletcher, Frank, Norris) *DF*  
Division of Economics (Bruce, Hudson, Johnson) *CAJ*  
Office of the General Counsel (Leathers, Crawford) *ALM*

**RE:** Docket No. 160065-WU – Application for increase in water rates in Charlotte County by Bocilla Utilities, Inc.

**AGENDA:** 08/09/16 – Regular Agenda – Decision on Suspension of Rates and Interim Rates – Participation is at the Discretion of the Commission.

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Edgar

**CRITICAL DATES:** 60-Day Suspension Waived Through 08/09/16

**SPECIAL INSTRUCTIONS:** None

## Case Background

Bocilla Utilities, Inc. (Bocilla or Utility) is a Class B utility providing water service to approximately 399 water customers in Charlotte County. Effective February 12, 2013, Bocilla was granted water Certificate No. 662-W.<sup>1</sup> Bocilla's rates have never been established for ratemaking purposes by the Commission.

<sup>1</sup>Order No. PSC-13-0228-PAA-WU, issued May 29, 2013, in Docket No. 130067-WU, *In re: Application for grandfather certificate to operate water utility in Charlotte County by Bocilla Utilities, Inc.*

Docket No. 160065-WU

Date: July 28, 2016

By letter dated May 20, 2016, Bocilla provided its Minimum Filing Requirements (MFRs) for a file and suspend rate increase. In its application, the Utility requested a test year ended December 31, 2015, for purposes of interim and final rates. On May 23, 2016, Bocilla provided its waiver of the Commission's 60-day deadline, as set forth in Sections 367.081(6) and 367.082(2)(a), Florida Statutes (F.S.), through August 9, 2016.

This recommendation addresses the suspension of Bocilla's requested final rates and the Utility's requested interim rates. The Commission has jurisdiction pursuant to Sections 367.081 and 367.082, F.S.

### Discussion of Issues

**Issue 1:** Should the Utility's proposed final water rates be suspended?

**Recommendation:** Yes. Bocilla's proposed final water rates should be suspended. (Hill)

**Staff Analysis:** Section 367.081(6), F.S., provides that the Commission may, for good cause, withhold consent to the implementation of requested rates within 60 days after the date the rate request is filed. Further, Section 367.081(10), F.S., permits the proposed rates to go into effect (secured and subject to refund) at the expiration of five months from the official date of filing (1) if the Commission has not acted upon the requested rate increase or (2) if the Commission's Proposed Agency Action is protested by a party other than the Utility.

Staff has reviewed the filing and has considered the information filed in support of the rate application and the proposed final rates. Staff recommends that further investigation of this information, including on-site investigation by Commission staff, is necessary. To date, staff has initiated an audit of Bocilla's books and records. The audit report is due on August 23, 2016. In addition, staff sent a data request to Bocilla on July 28, 2016, and the response is due August 29, 2016. Further, staff believes additional requests will be necessary to process this case. Based on the foregoing, staff recommends that the Utility's proposed final water rates be suspended.

**Issue 2:** Should any interim revenue increases be approved?

**Recommendation:** Yes. Bocilla should be authorized to collect annual revenues as indicated below: (Frank)

	<b>Annual Revenues</b>			
	<u>Adjusted Test Year Revenues</u>	<u>\$ Increase</u>	<u>Revenue Requirement</u>	<u>% Increase</u>
Water	\$398,963	\$65,159	\$464,122	16.33%

**Staff Analysis:** On May 24, 2016, Bocilla filed its rate base, cost of capital, and operating statements to support its requested interim increase in rates. Pursuant to Section 367.082(1), F.S., in order to establish a prima facie entitlement for interim relief, the Utility shall demonstrate that it is earning outside the range of reasonableness on its rate of return. Pursuant to Section 367.082(2)(a), F.S., in a proceeding for an interim increase in rates, the Commission shall authorize, within 60 days of the filing for such relief, the collection of rates sufficient to earn the minimum of the range of rate of return. Based on the Utility's filing and the recommended adjustments below, staff believes that the Utility has demonstrated a prima facie entitlement in accordance with Section 367.082(1), F.S.

Pursuant to Section 367.082(5)(b)1., F.S., the achieved rate of return for interim purposes must be calculated by applying adjustments consistent with adjustments made in the Utility's most recent rate proceeding and annualizing any rate changes. This is the Utility's first rate proceeding since receiving a grandfather certificate in Order No. PSC-13-0228-PAA-WU.<sup>2</sup> Therefore, adjustments from a prior case were not necessary. However, staff has reviewed Bocilla's interim request, and believes adjustments are necessary as discussed below. Staff has attached accounting schedules to illustrate staff's recommended rate base, capital structure, and test year operating income amounts. Rate base is labeled as Schedule No. 1-A, with the adjustments shown on Schedule No. 1-B. Capital structure is labeled as Schedule No. 2. Operating income is labeled as Schedule No. 3-A, with the adjustments shown on Schedule No. 3-B.

### **Rate Base**

As mentioned above, this is the Utility's first rate proceeding since receiving its grandfather certificate, therefore, there are no adjustments necessary to comply with prior orders. However, based on staff's review, the following adjustments are necessary for interim purposes.

Pursuant to Rule 25-30.433(4), Florida Administrative Code (F.A.C.), the averaging method used by the Commission to calculate rate base and cost of capital in a rate case proceeding shall be the beginning and end-of-year average for Class B utilities. In its filing, the Utility used a 13-month average to calculate rate base and cost of capital. As a result, staff made the following adjustments to reflect the beginning and end-of-year averages. Staff decreased plant in service by

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<sup>2</sup>Order No. PSC-13-0228-PAA-WU, issued May 29, 2013, in Docket No. 130067-WU, *In re: Application for grandfather certificate to operate water utility in Charlotte County by Bocilla Utilities, Inc.*



\$23,143, decreased contributions-in-aid-of-construction (CIAC) by \$346, and increased amortization of CIAC by \$96. Additionally, staff removed \$44,000 attributed to land that was accounted for twice in the calculation of rate base.

Pursuant to Rule 25-30.110(2), F.A.C., the Utility's filings shall be consistent and reconcilable with the Utility's Annual Report. As such, staff decreased construction-work-in-progress by \$42 in order to be consistent with the Utility's 2015 Annual Report.

Pursuant to Rule 25-30.433(2), F.A.C., working capital for Class B utilities shall be calculated using the formula method (one-eighth of operation and maintenance expenses). In its filing, the Utility used the balance sheet approach to calculate interim working capital. Using the correct methodology yields a working capital allowance of \$45,466 (\$363,729/8). As a result, staff decreased working capital by \$72,197 (\$45,466 - \$117,663) to reflect one-eighth of operation and maintenance expenses. Based on the above, staff recommends that Bocilla's interim rate base should be \$646,070.

### **Cost of Capital**

Based on an analysis of the MFRs, staff believes adjustments are necessary to the Utility's capital structure. In its interim request, the Utility used a return on equity (ROE) of 10.50 percent. Pursuant to Section 367.082(5)(b)3., F.S., if a rate of return on equity has not yet been established by the Commission, the Utility shall use the approved leverage formula ROE<sup>3</sup> which results in an ROE of 11.16 percent. However, pursuant to Section 367.082(2)(b), F.S., interim rate relief is calculated using the minimum of the range of its ROE which is 10.16 percent. As mentioned above, the Utility used a 13-month average to calculate cost of capital. As a result, staff decreased long-term debt by \$95 and increased common equity by \$13,074 to reflect the appropriate beginning and end-of-year averages. Based on the above, staff recommends an interim weighted average cost of capital for Bocilla of 5.85 percent.

### **Net Operating Income**

In order to attain the appropriate amount of interim test year operating revenues, staff removed the Utility's requested interim revenue increase of \$82,200. Staff also reduced regulatory assessment fees (RAFs) by \$3,341 to reflect the removal of the Utility's requested revenue increase. Based on staff's annualized revenue calculations, revenues should be increased by \$7,946. Based on the above, staff recommends that the appropriate test year operating income, before any revenue increase, is a \$24,405 loss.

### **Revenue Requirement**

Based on the above adjustments, staff recommends a revenue requirement of \$464,122. This represents an interim increase in annual revenues of \$65,159 (or 16.33 percent). This increase will allow the Utility the opportunity to recover its operating expenses and earn a 5.85 percent return on its rate base.

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<sup>3</sup>Order No. PSC-16-0254-PAA-WS, issued June 29, 2016, in Docket No. 160006-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 3:** What are the appropriate interim water rates?

**Recommendation:** The recommended rate increase of 16.42 percent for Bocilla should be applied as an across-the-board increase to the Utility's existing service rates. The rates, as shown on Schedule No. 4, 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 the required security has been filed, 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. (Johnson)

**Staff Analysis:** Staff recommends that interim service rates for Bocilla be designed to allow the Utility the opportunity to generate annual operating revenues of \$464,122. Before removal of miscellaneous revenues, this would result in an increase of \$65,159 (16.33 percent). 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 1**  
**Percentage Service Rate Increase**

	<u>Water</u>
1 Total Test Year Revenues	\$398,963
2 Less: Miscellaneous Revenues	<u>\$2,168</u>
3 Test Year Revenues from Service Rates	\$396,795
4 Revenue Increase	<u>\$65,159</u>
5 Percentage Service Rate Increase (Line 4/Line 3)	16.42%

Source: Staff's Recommended Revenue Requirement and MFRs

Staff recommends that the interim rate increase of 16.42 percent for Bocilla should be applied as an across-the-board increase to the existing service rates. The rates, as shown on Schedule No. 4, 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 the required security has been filed, 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 4:** What is the appropriate security to guarantee the interim increase?

**Recommendation:** The Utility should be required to secure a letter of credit, or alternately an escrow account or surety bond, to guarantee any potential refund of revenues collected under interim conditions. If the security provided is a letter of credit or surety bond, it should be in the amount of \$43,638. Otherwise, the Utility should deposit \$5,430 into the escrow account each month. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and in accordance with Rule 25-30.360, F.A.C. (Frank)

**Staff Analysis:** Pursuant to Section 367.082(2)(a), F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission. As recommended in Issue 2, the total interim increase is \$65,159. In accordance with Rule 25-30.360, F.A.C., staff calculated the potential refund of revenues and interest collected under interim conditions to be \$43,638. This amount is based on an estimated eight months of revenue being collected from staff's recommended interim rates over the Utility's current authorized rates shown on Schedule No. 4.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. The Utility has indicated to staff that it intends to utilize an escrow account as security for potential refund of interim rates granted. As such, staff did not perform an analysis regarding the Utility's financial capability to support a corporate undertaking. Staff recommends Bocilla be required to secure a letter of credit, or alternately an escrow account or surety bond, to guarantee any potential refund of water revenues. The requirements associated with each are discussed below.

If the security provided is a surety bond or a letter of credit, said instrument should be in the amount of \$43,638. If the Utility chooses a surety bond as security, the surety bond should state that it will be released or terminated only upon subsequent order of the Commission. If the Utility chooses to provide a letter of credit as security, the letter of credit should state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered releasing the funds to the Utility or requiring a refund.

If the security provided is an escrow account, said account should be established between the Utility and an independent financial institution or the Division of Treasury for the Florida Department of Financial Services pursuant to a written escrow agreement. The Commission should be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: the account is established at the direction of the Commission for the purpose set forth above; no withdrawals of funds shall occur without the prior approval of the Commission through the Commission Clerk, Office of Commission Clerk; the account shall be interest bearing; information concerning that escrow account shall be available from the institution to the Commission or its representative at all times; the amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt; and, pursuant to *Cosentino v. Elson*, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

If the security provided is an escrow account, the Utility should deposit \$5,430 into the escrow account each month. The escrow agreement should also state that “if a refund to the customers is required, all interest earned on the escrow account shall be distributed to the customers, and if a refund to the customers is not required, the interest earned on the escrow account shall revert to the Utility.”

Regardless of the type of security provided, the Utility should keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th day of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

In no instance should maintenance and administrative costs associated with any refund be borne by the customers. Such costs are the responsibility of, and should be borne by, the Utility.

**Issue 5:** Should this docket be closed?

**Recommendation:** This docket should remain open pending the Commission's final action on the Utility's requested rate increase. (Leathers)

**Staff Analysis:** This docket should remain open pending the Commission's final action on the Utility's requested rate increase.

<b>Bocilla Utilities, Inc.</b>		<b>Schedule No. 1-A</b>			
<b>Schedule of Water Rate Base</b>		<b>Docket No. 160065-WU</b>			
<b>Test Year Ended 12/31/15</b>					
<b>Description</b>	<b>Test Year Per Utility</b>	<b>Utility Adjust- ments</b>	<b>Adjusted Test Year Per Utility</b>	<b>Staff Adjust- ments</b>	<b>Staff Adjusted Test Year</b>
1 Plant in Service	\$1,205,896	\$0	\$1,205,896	(\$67,143)	\$1,138,754
2 Land and Land Rights	44,000	0	44,000	0	44,000
3 Construction Work in Progress	42	0	42	(42)	0
4 Accumulated Depreciation	(349,147)	0	(349,147)	0	(349,147)
5 CIAC	(459,194)	0	(459,194)	346	(458,848)
6 Amortization of CIAC	225,750	0	225,750	96	225,846
7 Working Capital Allowance	<u>0</u>	<u>117,663</u>	<u>117,663</u>	<u>(72,197)</u>	<u>45,466</u>
<b>8 Rate Base</b>	<b><u>\$667,347</u></b>	<b><u>\$117,663</u></b>	<b><u>\$785,010</u></b>	<b><u>(\$138,940)</u></b>	<b><u>\$646,070</u></b>

<b>Bocilla Utilities, Inc.</b>		<b>Schedule No. 1-B</b>
<b>Adjustments to Rate Base</b>		<b>Docket No. 160065-WU</b>
<b>Test Year Ended 12/31/15</b>		
<b>Explanation</b>		<b>Water</b>
<u>Plant In Service</u>		
1	Remove duplicate land. (Issue 2)	(\$44,000)
2	Reflect simple average. (Issue 2)	<u>(23,143)</u>
	Total	<u>(\$67,143)</u>
<u>Construction Work-in-Progress</u>		
	Reconcile to annual report. (Issue 2)	<u>(\$42)</u>
<u>CIAC</u>		
	Reflect simple average. (Issue 2)	<u>\$346</u>
<u>Accumulated Amortization of CIAC</u>		
	Reflect simple average. (Issue 2)	<u>\$96</u>
<u>Working Capital</u>		
	Reflect 1/8 <sup>th</sup> O&M expense. (Issue 2)	<u>(\$72,197)</u>

Bocilla Utilities, Inc. Capital Structure-Simple Average Test Year Ended 12/31/15							Schedule No. 2 Docket No. 160065-WU	
Description	Total Capital	Specific Adjust- ments	Subtotal Adjusted Capital	Prorata Adjust- ments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost
<b>Per Utility</b>								
1 Long-term Debt	\$1,005,321	\$0	\$1,005,321	\$0	\$1,005,321	83.19%	5.00%	4.16%
2 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
4 Common Equity	203,077	0	203,077	0	203,077	16.81%	10.50%	1.77%
5 Customer Deposits	0	0	0	0	0	0.00%	0.00%	0.00%
6 Deferred Income Taxes	<u>12,122</u>	<u>0</u>	<u>12,122</u>	<u>0</u>	<u>12,122</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
7 <b>Total Capital</b>	<u>\$1,220,520</u>	<u>\$0</u>	<u>\$1,220,520</u>	<u>\$0</u>	<u>\$1,220,520</u>	<u>100.00%</u>		<u>5.92%</u>
<b>Per Staff</b>								
8 Long-term Debt	\$1,005,321	(\$95)	\$1,005,226	(\$478,718)	\$526,508	81.49%	5.00%	4.07%
9 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%
10 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
11 Common Equity	203,077	13,074	216,151	(102,938)	113,213	17.52%	10.16%	1.78%
12 Customer Deposits	0	0	0	0	0	0.00%	0.00%	0.00%
13 Deferred Income Taxes	<u>12,122</u>	<u>0</u>	<u>12,122</u>	<u>(5,773)</u>	<u>6,349</u>	<u>0.98%</u>	<u>0.00%</u>	<u>0.00%</u>
14 <b>Total Capital</b>	<u>\$1,220,520</u>	<u>\$12,979</u>	<u>\$1,233,499</u>	<u>(\$587,429)</u>	<u>\$646,070</u>	<u>100.00%</u>		<u>5.85%</u>
						<b>LOW</b>	<b>HIGH</b>	
RETURN ON EQUITY						<u>10.16%</u>	<u>12.16%</u>	
OVERALL RATE OF RETURN						<u>5.85%</u>	<u>6.20%</u>	



Bocilla Utilities, Inc. Statement of Water Operations Test Year Ended 12/31/15						Schedule No. 3-A Docket No. 160065-WU	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year	Revenue Increase	Revenue Requirement
1 <b>Operating Revenues:</b>	<u>\$391,017</u>	<u>\$82,200</u>	<u>\$473,217</u>	<u>(\$74,254)</u>	<u>\$398,963</u>	<u>\$65,159</u> 16.33%	<u>\$464,122</u>
<b>Operating Expenses</b>							
2 Operation & Maintenance	\$363,729	\$0	\$363,729	\$0	\$363,729	\$0	\$363,729
3 Depreciation	14,743	0	14,743	0	14,743	0	14,743
4 Amortization	0	0	0	0	0	0	0
5 Taxes Other Than Income	44,538	3,699	48,237	(3,341)	44,791	3,036	47,828
6 Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7 <b>Total Operating Expense</b>	<u>\$423,010</u>	<u>\$3,699</u>	<u>\$426,709</u>	<u>(\$3,341)</u>	<u>\$423,263</u>	<u>\$3,036</u>	<u>\$426,300</u>
8 <b>Operating Income</b>	<u>(\$31,993)</u>	<u>\$78,501</u>	<u>\$46,508</u>	<u>(\$70,913)</u>	<u>(\$24,405)</u>	<u>\$62,227</u>	<u>\$37,822</u>
9 <b>Rate Base</b>	<u>\$785,010</u>		<u>\$785,010</u>		<u>\$646,070</u>		<u>\$646,070</u>
10 <b>Rate of Return</b>	<u>(4.08%)</u>		<u>5.92%</u>		<u>(4.12%)</u>		<u>5.85%</u>

<b>Bocilla Utilities, Inc.</b>		<b>Schedule 3-B</b>
<b>Adjustment to Operating Income</b>		<b>Docket No. 160065-WU</b>
<b>Test Year Ended 12/31/15</b>		
<b>Explanation</b>	<b>Water</b>	
<u>Operating Revenues</u>		
1	Remove requested interim revenue increase. (Issue 2)	(\$82,000)
2	Reflect the appropriate amount of test year revenues. (Issue 2)	<u>7,946</u>
	Total	<u>(\$74,254)</u>
<u>Taxes Other Than Income</u>		
	RAFs on revenue adjustments above. (Issue 2)	<u>(\$3,341)</u>

Bocilla Utilities, Inc. Test Year Ended 12/31/15 Monthly Water Rates		SCHEDULE NO. 4 DOCKET NO. 160065-WU		
	UTILITY CURRENT RATES	UTILITY REQUESTED INTERIM	UTILITY REQUESTED FINAL	STAFF RECOMMENDED RATES
<b><u>Residential, Bulk, and General Service</u></b>				
<b>Base Facility Charge by Meter Size</b>				
5/8" X 3/4"	\$46.24	\$55.22	\$64.46	\$53.83
1"	\$115.60	\$138.05	\$161.16	\$134.58
1-1/2"	\$231.18	\$276.10	\$322.31	\$269.15
2"	\$369.85	\$441.77	\$515.70	\$430.64
3"	\$693.55	\$828.31	\$966.94	\$861.28
4"	\$1,155.93	\$1,380.52	\$1,611.57	\$1,345.75
6"	\$2,324.85	\$2,761.05	\$3,223.15	\$2,691.50
8"	\$3,699.02	\$4,417.68	\$5,157.04	\$4,306.40
<b>Charge per 1,000 gallons - Residential and General Service</b>				
0-6,000 gallons	\$4.62	\$5.52	\$6.44	\$5.38
6,001-12,000 gallons	\$7.76	\$9.27	\$10.83	\$9.03
Over 12,000 gallons	\$12.32	\$14.56	\$16.99	\$14.34
<b>Charge per 1000 gallons - Bulk Water Service</b>				
	\$16.48	\$19.47	\$22.72	\$19.19
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>				
5,000 Gallons	\$69.34	\$82.82	\$96.66	\$80.73
10,000 Gallons	\$105.00	\$125.42	\$146.42	\$122.23
15,000 Gallons	\$157.48	\$187.64	\$219.05	\$183.31

# Item 10

State of Florida



FILED JUL 29, 2016  
DOCUMENT NO. 05682-16  
FPSC - COMMISSION CLERK

# 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-

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**DATE:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Engineering (M. Watts, Knoblauch) *OK*  
Division of Economics (Johnson) *CAS*  
Office of the General Counsel (Leathers) *REC*

**RE:** Docket No. 160095-SU – Application for amendment of Certificate No. 164-S to extend territory in Duval County by Commercial Utilities/A Division of Grace & Company, Inc.

**AGENDA:** 08/09/16 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** ~~Staff~~ *All Commissioners* *OP*

**PREHEARING OFFICER:** ~~All Commissioners~~ *Administrative* *OP*

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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## Case Background

On April 21, 2016, Commercial Utilities/A Division of Grace & Company, Inc. (Commercial Utilities or Utility) filed an application with the Florida Public Service Commission (Commission) to amend Certificate No. 164-S to add territory in Duval County. The Utility plans to extend its service territory in order to provide wastewater service to the Church's Chicken Restaurant and Krystal Restaurant at 5870 and 5814 Normandy Boulevard, respectively, in Jacksonville, Florida.

Docket No. 160095-SU

Date: July 28, 2016

The Utility was originally granted water and wastewater certificates in 1976.<sup>1</sup> The Utility's water certificate was canceled in 1997,<sup>2</sup> and the wastewater territory was amended in 2011 to add six additional parcels.<sup>3</sup> The Commission has jurisdiction pursuant to Section 367.045, Florida Statutes (F.S).

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<sup>1</sup>Order No. 6704, issued on June 4, 1975, in Docket Nos. 74787-W and 74788-S, *In re: Application of Grace & Company, Inc., for a certificate to operate an existing water and sewer system in Duval County, Florida.*

<sup>2</sup>Order No. PSC-97-0094-FOF-WU, issued on January 27, 1997, in Docket No. 961268-WU, *In re: Request for change in regulatory status and cancellation of Certificate No. 219-W in Duval County by Commercial Utilities, Division of Grace and Company, Inc.*

<sup>3</sup>Order No. PSC-11-0254-FOF-SU, issued on June 13, 2011, in Docket No. 100398-SU, *In re: Application for amendment of Certificate No. 164-S to extend territory in Duval County by Commercial Utilities, Division of Grace and Company, Inc.*

### Discussion of Issues

**Issue 1:** Should the Commission approve Commercial Utilities' application for amendment of Certificate No. 164-S to extend its wastewater territory in Duval County?

**Recommendation:** Yes. It is in the public interest to amend Certificate No. 164-S to include the territory as described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Commercial Utilities' amended certificate and should be retained by the Utility. The Utility should charge the customers in the territory added herein the rates and charges contained in its current tariff until a change is authorized by the Commission in a subsequent proceeding. (M. Watts, Knoblauch, Johnson)

**Staff Analysis:** The Utility's application to amend its authorized service territory is in compliance with the governing statute, Section 367.045, F.S., and Rule 25-30.036, Florida Administrative Code (F.A.C.), Application for Amendment to Certificate of Authorization to Extend or Delete Service Area. The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, F.A.C, Notice of Application and of Customer Meeting. No objections to the application have been received and the time for filing such has expired. The Utility stated that it does not have its own treatment facilities, but purchases wastewater treatment capacity from the Jacksonville Electric Authority Wastewater Treatment System (JEA). Adequate service territory maps and territory descriptions have also been provided.

The proposed additional service territory is intended to serve two restaurants on Normandy Boulevard, adjacent to the Utility's existing service area. The City of Jacksonville Environmental and Compliance Department stated in a November 30, 2015 letter to the Utility that the restaurants had experienced operational deficiencies with the current system providing wastewater treatment services to them, a wastewater package plant operated by an adjacent property owner. The letter also stated that the proposed connections to Commercial Utilities' wastewater treatment system would help eliminate future potential wastewater violations in the area, and it, therefore, supports the Utility's application to expand its territory to serve these two properties. Additionally, on December 14, 2015, JEA submitted a letter to the Utility echoing the City of Jacksonville's concerns, and stating it did not object to the Utility's application to expand its territory to serve these customers.

The Utility was granted a rate increase in 2011<sup>4</sup> and at that time, the Commission found the overall quality of service of Commercial Utilities to be satisfactory. Based upon staff's review of the financial information provided in this docket, the Utility's financial ability to operate a utility has not diminished since that time. The Utility has filed its 2015 Annual Report and is current with the payment of its 2015 Regulatory Assessment Fees.

The Utility has no approved service availability policy or charges. However, a developer agreement was submitted with the amendment application indicating that the customers in the new service area will install and donate to the Utility, the collection system needed to connect

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<sup>4</sup>Order No. PSC-11-0138-PAA-SU, issued February 28, 2011, in Docket No. 100236-SU, *In re: Application for staff-assisted rate case in Duval County by Commercial Utilities, Division of Grace & Co., Inc.*

the customers to the Utility's existing collection system, consistent with Rules 25-30.580 and 25-30.585, F.A.C.

The Utility stated in its application that its collection system is adequately sized to accommodate the additional wastewater flows generated by Krystal Restaurant and Church's Chicken Restaurant. Also, with the additional flows from the restaurants, the Utility's wastewater flows to the JEA treatment facility will remain within the limits set by the Utility's contract/agreement with JEA.

According to the application, the provision of wastewater services in the proposed service territory is consistent with the City of Jacksonville 2030 Comprehensive Plan, and there are no outstanding Consent Orders or Notices of Violation from the Florida Department of Environmental Protection. Based on the foregoing analysis, staff recommends that Commercial Utilities has the financial and technical ability to service the amended territory.

### **Conclusion**

Based on the information above, staff recommends it is in the public interest to amend Certificate No. 164-S to include the territory as described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Commercial Utilities' amended certificate and should be retained by the Utility. The Utility should charge the customers in the territory added herein the rates and charges contained in its current tariffs until a change is authorized by the Commission in a subsequent proceeding.



**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If the Commission approves staff's recommendation in Issue 1, no further action will be necessary, and this docket should be closed upon issuance of the order. (Leathers)

**Staff Analysis:** If the Commission approves staff's recommendation in Issue 1, no further action will be necessary, and this docket should be closed upon issuance of the order.

**Commercial Utilities, Inc.**

**Description of Proposed Service Territory**

**Current Territory:**

A portion of land lying in Section 24, Township 2 South, Range 25 East, and in Section 19, Township 2 South, Range 26 East, Duval County, Florida and being more particularly described as follows:

Begin at the intersection of the easterly Right-of-Way line of Lane Avenue with the southerly limited access Right-of-Way line of Interstate Highway 10; thence easterly along said southerly limited access Right-of-Way line a distance of 2700± feet to its intersection with the westerly Right-of-Way line of Ellis Road; thence southerly along said westerly Right-of-Way line, a distance of 330± feet to its intersection with the northerly Right-of-Way line of Ramona Boulevard; thence westerly along said northerly Right-of-Way line a distance of 762± feet to its intersection with the northerly prolongation of the westerly line of those lands described in Official Records Volume 14431, page 1628 as recorded in the current public records of said county, Florida; thence southerly along said northerly prolongation and along the westerly line thereof, a distance of 265± feet to its intersection with the northerly Right-of-Way line of Akra Avenue; thence westerly along said northerly Right-of-Way line, a distance of 513± feet to its intersection with the westerly line of first addition to Buenos Aires subdivision as recorded in plat book 12 page 45 of said current public records; thence southerly along said westerly line, a distance of 468± feet to the Southwest corner of those lands described in Official Records Volume 11600, page 1075 of said current public records; thence westerly, a distance of 26± feet to its intersection with the northerly prolongation of the westerly line of those lands described in Official Records Volume 3030, page 743 of said current public records; thence southerly along said northerly prolongation and along the westerly line thereof, a distance of 643± feet to the Southwest corner thereof; thence easterly along the southerly line thereof and the easterly prolongation thereof, a distance of 1299± feet to its intersection with the westerly Right-of-Way line of said Ellis Road; thence southerly along the westerly Right-of-Way line thereof, a distance of 669± feet to its intersection with the northerly Right-of-Way line of Normandy Boulevard; thence southwestwardly along the northerly Right-of-Way line thereof being an arc of a curve with a chord bearing and distance of South 74° West, 2702± feet to its intersection with the easterly Right-of-Way line of Lane Avenue; thence northerly along the easterly Right-of-Way line thereof, a distance of 1349± feet to its intersection with the easterly prolongation of the southerly line of those lands described in Official Records Volume 7182, page 796 of said current public records. Thence North 89°10'19" West along said easterly prolongation and along the southerly line thereof and the southerly line of those lands described in Official Records Volume 10274, page 2132 of said current public records, a distance of 379± feet to the Southwest corner thereof; thence northerly along the westerly line thereof, a distance of 105± feet to the Northwest corner thereof; thence westerly along the northerly line of those lands described in Official Records Volume 9256, page 1 of said current public records, a distance of 346± feet to its intersection with the easterly Right-of-Way line of Grandville Road; thence northeasterly along the easterly Right-of-Way line thereof, a distance of 370± feet to its point of termination; thence westerly along the southerly line of those lands described Official Records Volume 3927, page 349 of said

current public records, a distance of 557± feet to the Southwest corner thereof; thence North 04° East along the westerly line thereof, a distance of 657± feet to the Southwest corner of those lands described in Official Records Volume 11263, page 514 of said current public records; thence easterly along the southerly line thereof, a distance of 380± feet to the Southeast corner thereof; thence northerly along the easterly line thereof and the northerly prolongation thereof, a distance of 409± feet to its intersection with the northerly Right-of-Way line of said Ramona Boulevard; thence westerly along the northerly Right-of-Way line thereof, a distance of 116± feet to the Southwest corner of those lands described in Official Records Volume 10174, page 2280 of said current public records; thence northerly along the westerly line thereof, a distance of 329± feet to its intersection with said southerly limited access Right-of-Way line of Interstate Highway 10; thence easterly along said southerly limited access Right-of-Way line, a distance of 900± feet to its intersection with the westerly Right-of-Way line of said Lane Avenue; thence northerly along the westerly Right-of-Way line thereof, a distance of 823± feet to its intersection with the northerly limited access Right-of-Way line of said Interstate Highway 10; thence southwesterly along said limited access Right-of-Way line, a distance of 106± feet to its intersection with the southerly line of those lands described in Official Records Volume 12059, page 1065 of said current public records; thence westerly along the southerly line thereof and the southerly line of those lands described in Official Records Volume 12067, page 2131 of said current public records, a distance of 477± feet to a point in the southerly line of last said lands; thence northerly, a distance of 441± feet to its intersection with the northerly Right-of-Way line of Stuart Avenue; thence westerly along the northerly Right-of-Way line thereof, a distance of 20± feet to the Southwest corner of those lands described in Official Records Volume 13770, page 1003 of said current public records; thence northerly along the westerly line thereof also being the easterly Right-of-Way line of Fox Street, a distance of 294± feet to a Northwest corner thereof; thence easterly along the northerly line thereof and along the easterly prolongation thereof, a distance of 645± feet to its intersection with the easterly Right-of-Way line of said Lane Avenue; thence southerly along the easterly Right-of-Way line thereof, a distance of 343± feet to its intersection with the southerly Right-of-Way line of said Stuart Avenue; thence easterly along the southerly Right-of-Way line thereof, a distance of 283± feet to the Northeast corner of those lands described in Official Records Volume 10281, page 77 of said current public records; thence southerly along the easterly line thereof, a distance of 305± feet to the southeasterly corner thereof; thence westerly along the southerly line thereof, a distance of 282± feet to its intersection with the said easterly Right-of-Way line of said Lane Avenue; thence southerly along the easterly Right-of-Way line thereof, a distance of 824± to the POINT OF BEGINNING.

Together with Official Records Volume 8483, page 928 of the current public records Duval County, Florida. A parcel of land situated, lying and being part of the Southwest quarter (1/4) of the Southwest quarter (1/4) of Section 19, Township 2 South, Range 26 East, City of Jacksonville, Duval County, Florida, and being more particularly described as follows:

Beginning at the Southwest corner of said Section 19; thence North 00°44'00" West along the West line of said Section 19, 214.81 feet to its intersection with the southerly Right-of-Way line of Normandy Boulevard and/or State Road No. 228 (as said southerly Right-of-Way line is now established by the Department of Transportation), said aforementioned Right-of-Way line being a curve, concave to the Southeast and having a radius of 12,167.67 feet; thence around and along

said curve and along said southerly Right-of-Way line of Normandy Boulevard North 72°00'00" East, 413.35 feet (chord bearing and distance) to its intersection with the North line of those certain lands described in deed, recorded in Official Records Volume 122, page 402 of the current public records of said county; thence North 88°32'02" East along the North line of said last mentioned lands, 72.25 feet to the Northeast corner of said last mentioned lands; thence South 00°43'28" East along the East line of said last mentioned lands and along the East line of those certain lands, described in deed, recorded in deed book 1106, page 451 of said public records, 333.48 feet to a point situate in the South line of said Section 19; thence South 88°37'02" West along said South line of Section 19, 467.07 feet to the POINT OF BEGINNING.

Territory to Be Added:

Parcel 1.

Generally described as Krystal Restaurant, 5814 Normandy Blvd., Jacksonville, Fla.;

Those lands described as a part of Sections 24 and 25, Township 2 South, Range 25 East, Duval County, Florida, being more particularly described as follows: for a point of reference commence at the Southeast corner of said Section 24 and run North 0°43' East along the easterly line of said Section 24, 31.19 feet to the POINT OF BEGINNING.

From the POINT OF BEGINNING thus described run South 72°27'20" West, 186.29 feet; run thence North 19°39'03" West, 182.0 feet to the southerly Right-of-Way line of Normandy Boulevard (a 100-foot Right-of-Way as now established); run thence in an easterly direction along the arc of a curve in said southerly Right-of-Way line, said curve being concave to the south and having a radius of 12,177.66 feet, a chord distance of 253.79 feet to a point where said southerly Right-of-Way line intersects the easterly line of said Section 24, the bearing of the aforesaid mentioned chord being North 71°54'57" East; run thence South 0°43' West along said easterly line of Section 24, 194.04 feet to the POINT OF BEGINNING; and

Parcel 2.

Generally described as Church's Fried Chicken, 5870 Normandy Blvd., Jacksonville, Fla.

Those lands described as a tract of land lying in Sections 24 and 25, Township 2 South, Range 25 East, Duval County, Florida, being more particularly described as follows:

For point of reference commence at an iron pipe at the Southeast corner of said Section 24 and run North 0°43' East along the East line of said Section 24, a distance of 223.05 feet to an iron pipe on the southerly Right-of-Way line of Normandy Boulevard (being a 100 foot Right-of-Way as now established);

Run thence South 71°22'10" West, a distance of 429.22 feet to an iron pipe set on said southerly Right-of-Way line of Normandy Boulevard for the POINT OF BEGINNING.

From the POINT OF BEGINNING thus described run in a westerly direction along the arc of a curve in said southerly Right-of-Way line, said curve being concave to the south and having a radius of 12,177.66 feet, a chord distance of 160.0 feet, the bearing of the aforementioned chord being South 70°00'40" West;

Run thence South 19°48'50" East, a distance of 160.0 feet;

Run thence North 70°00'4" East, a distance of 160.0 feet;

Run thence North 19°48'50" West, a distance of 160.0 feet to the POINT OF BEGINNING.

**FLORIDA PUBLIC SERVICE COMMISSION**

**authorizes**  
**Commercial Utilities, Inc.**  
**pursuant to**  
**Certificate Number 164-S**

to provide water service in Duval County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
6704	06/05/1975	74787-W, 74788-S	Original Certificate
PSC-11-0138-PAA-SU	02/28/2011	100398-SU	Amendment
*	*	160095-SU	Amendment

**\* Order Numbers and dates to be provided at time of issuance**

# 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:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Guffey) *SKG EJD LR*  
Office of the General Counsel (Leathers) *EL*

**RE:** Docket No. 160126-EI – Petition for approval of modifications to the approved premier power tariff and the government underground tariff and for approval of new government cost recovery contract, by Duke Energy Florida, LLC.

**AGENDA:** 08/09/16 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 8-Month Effective Date: 1/18/2017  
(60-Day Suspension Date Waived by the Utility until 8/9/2016)

**SPECIAL INSTRUCTIONS:** None

RECEIVED-FPSC  
2016 JUL 28 AM 9:28  
COMMISSIONER  
CLERK

### Case Background

On May 18, 2016, Duke Energy Florida, LLC (DEF or the company) filed a petition for approval of modifications to its approved premier power service rider (PPS rider) and local government underground cost recovery tariff (underground tariff), and for approval of a new local government underground cost recovery contract. The primary purpose of the PPS rider is to provide back-up supply of electricity service in the event normal electricity supply is interrupted.

Staff issued one data request to DEF on May 27, 2016, for which responses were received on June 7, 2016. On May 24, 2016, DEF provided, by email, its waiver of the Commission's 60-day deadline, as set forth in Section 366.06(3), Florida Statutes (F.S.), through August 9, 2016. The



Docket No. 160126-EI  
Date: July 28, 2016

tariff pages with proposed changes are contained in Attachment A of this recommendation. The Commission has jurisdiction over this matter pursuant to Sections 366.05(1) and 366.06, F.S.

## Discussion of Issues

**Issue 1:** Should the Commission approve DEF's petition for approval of modifications to its approved PPS rider and underground tariff and for approval of a new local government underground cost recovery contract?

**Recommendation:** Yes, the Commission should approve DEF's petition for approval of modifications to its approved PPS rider and underground tariff and for approval of a new local government underground cost recovery contract. (Guffey)

**Staff Analysis:** DEF has proposed three modifications to its tariff: (1) allow interruptible and curtailable customers to take service under the PPS rider; (2) clarifications to the underground tariff; and (3) add a new local government underground cost recovery contract form. The three revisions are discussed in detail below.

### PPS Rider Modification

The PPS rider is available on a voluntary basis to commercial customers who require on-site generators to serve as back-up electric supply. Pursuant to the PPS rider, DEF installs, operates, and maintains back-up power generators at the customer's premises and customers are responsible for the cost of the back-up generation. The PPS rider is designed for customers such as hospitals, municipal water and wastewater facilities, and financial institutions. The PPS rider was first approved in 2001 as an experimental tariff for five years.<sup>1</sup> In 2006, the Commission approved modifications and extended the tariff for an additional five years.<sup>2</sup> In 2011, the PPS rider became a permanent tariff.<sup>3</sup>

Currently, the PPS rider is available only to customers taking service under a firm rate schedule. DEF is proposing modifications to its PPS rider tariff Sheet Nos. 6.370 and 6.371 to allow customers taking service under the interruptible and curtailable tariffs to also participate in the PPS rider. In response to staff's data request, DEF explained that there are customers on the interruptible and curtailable tariffs who have sensitive manufacturing and operational processes and need backup generation to support power quality. DEF further explained that interruptible/curtailable customers have the option to install their own back-up generation on the customer's side of the meter. However, under certain situations, due to the configuration of facilities it may be more advantageous to the customer from an operational perspective to install a back-up system on the company's side of the meter through the PPS rider.

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<sup>1</sup> Order No. PSC-01-1648-TRF-EI, issued August 13, 2001, in Docket No. 010373-EI, *In re: Petition for approval to provide optional Premier Power Service Rider, Rate Schedule PPS-1, for general service customers by Florida Power Corporation.*

<sup>2</sup> Order No. PSC-06-1037-TRF-EI, issued December 18, 2006, in Docket No. 060480-EI, *In re: Petition by Progress Energy Florida, Inc. for approval of modification and extension of experimental Premier Power Service Rider, Rate Schedule PPS-1, and for approval of revised Premier Power Service Contract.*

<sup>3</sup> Order No. PSC-11-0481-TRF-EI, issued October 25, 2011, in Docket No. 110269-EI, *In re: Petition by Progress Energy Florida, Inc. for approval of modification to make the current experimental Premier Power Service Rider, Rate Schedule PPS-1 permanent.*

### **Underground Tariff Modification**

The underground tariff provides local governments with an optional mechanism for the recovery of the costs of converting overhead electric service to underground service through a fee on DEF's electric bill. The local government underground tariff was approved in 2002.<sup>4</sup> The tariff provides for the calculation of an annual recovery amount, which is the amount collected by DEF through a fee added to individual customer electric bills and remitted to the local government that undertook the conversion project. Only customers on whose behalf the conversion was made would pay the fee.

DEF is proposing minor modifications to its underground tariff Sheet Nos. 4.124 and 4.125 to reformat the formula for the annual recovery amount and to correct cross-references to other sections in DEF's local government underground tariff. DEF is not proposing to change the calculation of the annual recovery amount.

### **New Local Government Underground Cost Recovery Contract**

DEF's third request is to seek approval for a new local government underground cost recovery contract form (tariff Sheet Nos. 7.000 and 7.060 through 7.063). Although Section 12.06(7) of the currently approved underground tariff discussed above refers to a cost recovery form, DEF currently does not have an approved standard contract form in its tariff. Accordingly, DEF is requesting approval of this new form, which tracks the requirements of the underground tariff and establishes the specific terms and conditions for underground capital cost recovery. In its response to staff's first data request, DEF stated that the company has not contracted with any local governments for underground cost recovery to date. The company has had discussions with local governments regarding overhead to underground conversion projects; however, none of the local governments have requested to execute a cost recovery contract to date.

### **Conclusion**

Staff has reviewed DEF's proposed tariff modifications and responses to staff's data request and believes the proposed modifications are reasonable. Also, because customers who request service under the PPS rider are responsible for the cost of the back-up generation, the general body of ratepayers is protected. Therefore, staff recommends approval of DEF's petition for approval of modifications to its approved PPS rider and underground tariff, and for approval of a new local government underground cost recovery contract.

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<sup>4</sup> Order No. PSC-02-1629-TRF-EI, issued November 25, 2002, in Docket No. 020993-EI, *In re: Petition for approval of Local Government Underground Cost Recovery tariff by Florida Power Corporation.*

**Issue 2:** Should this docket be closed?

**Recommendation:** If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Leathers)

**Staff Analysis:** If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.



SECTION NO. IV  
 FOURTH-FIFTH REVISED SHEET NO. 4.124  
 CANCELS THIRD-FOURTH REVISED SHEET NO. 4.124

Page 5 of 6

**12.06 LOCAL GOVERNMENTAL UNDERGROUND COST RECOVERY**

**(1) Eligibility**

Underground cost recovery in accordance with the provisions of this Section 12.06 is available at the option of those municipal and county governments (local governments) located within the Company's retail service area who have entered into a contract with the Company pursuant to Section 12.05 of this Part XII for the conversion of existing overhead distribution facilities to underground facilities.

**(2) Annual Recovery Amount**

(a) An eligible local government may receive an Annual Recovery Amount collected by the Company through a Governmental Undergrounding Fee added to the electric bills of the Company's customers located in an Underground Assessment Area within the boundaries of the local government. The local government's Annual Recovery Amount shall be calculated in accordance with the following formula:

$$\text{Annual Recovery Amount} = \frac{(FC + GC) * I}{1 - (1 / (1 + I)^n)} - \frac{(FC + GC) * I}{1 + I}$$

Where:

FC = Facility Charge, as defined in Paragraph 12.05(2)(b) of this Part XII.

GC = Governmental Cost, which consists of the following costs incurred by the local government:

1. a surcharge based on the lesser of 10 percent of the Facility Charge or \$50,000, to reimburse the Company for a portion of its initial programming costs to implement the customer billing processes required by this Section 12.06;
2. reimbursement of the Company for its additional programming costs required to bill customers in the local government's specific Underground Assessment Area;
3. ancillary costs of the local government related to its undergrounding project, such as right-of-way acquisition, preparation and restoration costs, and financing costs; and
4. at the local government's option, (i) the total cost charged by electrical contractor(s) selected and hired by the local government to convert customer facilities (such as service entrances and meter bases) to receive underground service for all residential customers requiring such conversion, or (ii) a portion of the total cost charged by such electrical contractor(s) (based on a minimum average charge per customer determined by the local government), to convert customer facilities to receive underground service for all commercial/industrial customers requiring such conversion, or both (i) and (ii).

n = The Number of years over which the Facility Charge and Governmental Cost is to be recovered by the local government, which shall not exceed a maximum of 20 years.

I = The Interest rate on the bonds or other financial instruments utilized by the local government to finance the Facility Charge and Governmental Cost, adjusted for financing costs.

(b) In no event shall the Annual Recovery Amount exceed the amount that would have been recoverable over the most recent 12-month period for which actual customer billing data is available, using the maximum Governmental Undergrounding Fee permissible under Paragraph (3)(a) or (b) of this Section 12.06

**(3) Underground Assessment Area**

The local government shall establish the geographic boundaries of an Underground Assessment Area based on a determination, in its discretion, that the electric customers located within these boundaries benefit sufficiently from the underground conversion project in question to warrant the payment of a Governmental Undergrounding Fee to recover the costs of the conversion project. The Underground Assessment Area so established may consist of all or any contiguous portion of the area within the local government's corporate limits, and may overlap all or portions of other Underground Assessment Areas previously established by the local government.

(Continued on Next Page)

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

EFFECTIVE: April 28, 2013



SECTION NO. IV  
FOURTH FIFTH REVISED SHEET NO. 4.125  
CANCEL ~~THIRD FOURTH~~ REVISED SHEET NO. 4.125

Page 6 of 6

**(4) Governmental Undergrounding Fee**

- (a) The Company will bill a monthly Governmental Undergrounding Fee to electric customers located in the Underground Assessment Area established by the local government. The Governmental Undergrounding Fee shall be based on a uniform percentage of customers' total net charges for electric service calculated to produce the Annual Recovery Amount, net of regulatory assessment fees, if any. Except as provided in Paragraph 3.2(b) of this Section 12.06, the total Governmental Undergrounding Fee billed to a customer's account (irrespective of the number of Underground Assessment Areas in which the customer may be located) shall not exceed the lesser of (i) 15 percent of the customer's total net electric service charges, or (ii) a maximum monthly amount of \$30 for residential customers and \$50 for each 5,000 kilowatt-hour increment of consumption for ~~commercial/industrial-non-residential~~ customers. The maximum monthly amount shall apply to each line of billing in the case of a customer receiving a single bill for multiple service points, and to each occupancy unit in the case of a master metered customer.
- (b) The application of a Governmental Undergrounding Fee based on a higher percentage or maximum monthly amount than specified in Paragraph 3.4(a) of this Section 12.06 shall require approval of the Florida Public Service Commission.
- (c) The Governmental Undergrounding Fee shall be recalculated for each 12-month period during its effectiveness following the initial annual period. The recalculation shall be based on the Company's most current projections for the upcoming period, and shall include a true-up adjustment based on the difference between projected and actual recovery for the prior 12-month period.

**(5) Optional Utility Financing**

At the option of the local government, the Company will provide financing for the Facility Charge and Governmental Cost of the undergrounding project, subject to any limitation on the funds made available for such purpose at the Company's discretion. Upon request, the Company will advise the local government at the time the binding cost estimate is presented pursuant to Paragraph 12.04(2) of this Part XII whether sufficient funds are available at that time to finance the cost of the undergrounding project. The interest rate applicable to such optional financing will be determined by the Company commensurate with normal risk considerations such as the creditworthiness of the local government, the total cost subject to financing, the expected duration of the undergrounding project, and any other identifiable risks associated with financing the project.

**(6) Customer Notification**

At least 30 days prior to the execution of an Local Government Underground Capital Cost Recovery Contract pursuant to Subsection (7) of this Section 12.06, the local government shall mail a notice to each electric customer located within the proposed Underground Assessment Area stating its intention to recover the cost of the underground conversion project in question through a Governmental Undergrounding Fee on the customer's electric bill. The notice shall include, at a minimum, (i) a description of the underground conversion project, (ii) an estimate of the Governmental Undergrounding Fee (as a percentage of total net electric charges) and the maximum monthly amount, (iii) the month in which billing of the Fee is expected to commence, (iv) the number of years over which the Fee is to be imposed, and (v) a postage-prepaid form on which the customer may submit comments to the local government.

**(7) Underground Cost Recovery Contract**

The local government shall enter into a contract with the Company, the form of which has been approved by the Florida Public Service Commission or its staff, establishing the specific terms and conditions for underground capital cost recovery consistent with the provisions of this Section 12.06.

ISSUED BY: Javier J. Portuondo, Director, Rates & Regulatory Strategy – FL  
EFFECTIVE: April 29, 2013



SECTION NO. VII  
~~FOURTEENTH~~ ~~FIFTEENTH~~ REVISED SHEET NO. 7.000  
 CANCELS ~~THIRTEENTH~~ ~~FOURTEENTH~~ REVISED SHEET NO. 7.000

INDEX OF STANDARD CONTRACT AND OTHER AGREEMENT FORMS		
FORM NO.	DESCRIPTION	SHEET NO.
Form No. 1	Contract, Form No. 1 (after 11/21/98, applicable only to a Customer who requires this type form be executed for service under Rate Schedule LS-1, Lighting Service. Form No. LS-1HPS shall normally be used for application for service under LS-1).	7.010 - 7.011
Form No. 2	Contract Form No. 2 (applicable when service is provided under Company General Service Rate Schedules and special contract terms or investments in special facilities are required and furnished by the Company to provide service to the Customer).	7.020 - 7.021
IS-2 DISC	Interruptible General Service Rate Schedules IS-2 and ISI-2 Risk Disclosure	7.025
CS-2 DISC	Curtailable General Service Rate Schedule CS-2 and CSI-2 Risk Disclosure	7.027
Form No. b	Contract, Form No. b (applicable when a contract is made between the Company and the Customer to cover advances by the Customer for construction).	7.030
DVLP DIS	Agreement for Electric Service Between Duke Energy Florida, Inc. (the "Utility") and _____ (the "Applicant") (applicable when a developer requests the Company to install a distribution system for a new development).	7.050
<u>MUNI UC</u>	<u>Local Government Underground Cost Recovery Contract (applicable when a Local Government wishes to contract with the Company to provide for recovery of costs to underground service).</u>	<u>7.060 - 7.063</u>
PEH LSA	Leave Service Active Agreement (applicable to Customers who wish service to be left active on rental units, regardless if they are occupied or not).	7.070 - 7.071
3RD PR	Request for Third Party Notification (applicable to Customers who request the Company to notify another person that their bill is overdue).	7.090
LS-1	Lighting Service Contract.	7.110 - 7.113
PEH IOU	Application for IOU Rate (applicable to Customers requesting time of use rates).	7.120
PEH GSLM	Rate Schedule GSLM-1 Customer Agreement (applicable to Customers requesting General Service Load Management).	7.150
MSLR MIR	Standard Letter Agreement (applicable to master metered Customers indicating understanding of rules and regulations affecting resale of electricity).	7.160
EQP RNIL	Standard Letter Agreement (applicable to Customers who request additional facilities at their service location).	7.170
GUAR CNTR	Guarantee Contract (applicable when a third party guarantees payment for another individual's billing).	7.180
SIRI LIS	Agreement to Purchase and Sell Street Lighting System and to Furnish and Receive Electric Service	7.190 - 7.192
RES DEP	Residential Deposit Release - Releases current customer's deposit to new customer who then assumes responsibility for all payments of account.	7.220 - 7.221
PWR PAY	Power Pay - Customers bill is automatically paid from their checking account.	7.230
CISR	Contract Service Arrangement for service under the Commercial/Industrial Service Rider.	7.250 - 7.253
PPS	Premier Power Service - Contract signed by the customer requesting backup service through the Premier Power Service rate schedule.	7.270 - 7.273
NMRG - Tier 1	Standard Interconnection Agreement for Tier 1 Customer Owned Renewable Generation	7.310 - 7.313
IC APP - Tier 1	Application for Interconnection for Tier 1 Customer Owned Renewable Generation	7.317 - 7.317
NMRG - Tier 2	Standard Interconnection Agreement for Tier 2 Customer Owned Renewable Generation	7.320 - 7.323
NMRG - Tier 3	Standard Interconnection Agreement for Tier 3 Customer Owned Renewable Generation	7.330 - 7.333
IC APP - Tier 2,3	Application for Interconnection for Tier 2 and 3 Customer Owned Renewable Generation	7.337 - 7.337
ECON DEV	Economic Development Rider Service Agreement	7.500
ECON RE-DEV	Economic Re-Development Rider Service Agreement	7.510

ISSUED BY: Javier J. Portuondo, Director, Rates & Regulatory Strategy - FL  
 EFFECTIVE: October 17, 2013



SECTION NO. VII  
~~THIRD FOURTH REVISED SHEET NO. 7.060~~  
CANCELS ~~SECOND THIRD REVISED SHEET NO. 7.060~~

Page 1 of 4

**RESERVED FOR FUTURE USE**

**DUKE ENERGY FLORIDA, LLC  
LOCAL GOVERNMENT UNDERGROUND COST RECOVERY CONTRACT**

This Local Government Underground Cost Recovery Contract ("Contract") is made this \_\_\_\_\_ day of \_\_\_\_\_ ("Effective Date"), by and between \_\_\_\_\_ (hereinafter called the "Local Government"), located at \_\_\_\_\_ and Duke Energy Florida, LLC, a limited liability corporation organized and existing under the laws of the State of Florida (hereinafter called the "Company").

**WITNESSETH:**

**WHEREAS**, the Local Government is located within Company's retail service area and is therefore subject to Company's *General Rules and Regulations Governing Electric Service* (the "Tariff") on file with the Florida Public Service Commission; and

**WHEREAS**, pursuant to Section 12.05 of the Tariff, the Local Government has executed a contract (the "Conversion Contract") with Company for the conversion of existing overhead distribution facilities to underground facilities (the "Conversion"); a copy of which is attached hereto as Attachment A; and

**WHEREAS**, the Local Government has paid, or otherwise arranged optional utility financing with, the Company the amount set forth in the Conversion Contract with the Company; and

**WHEREAS**, given the Local Government's option to execute the Conversion Contract with Company, the Local Government (pursuant to Section 12.06 of the Tariff) now seeks cost recovery to reimburse it for some or all of the costs to convert the facilities that are the subject of the Conversion Contract.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements expressed herein, the Company and the Local Government agree as follows:

**A. Definitions:**

- "Annual Recovery Amount" shall mean \$ \_\_\_\_\_, which is the amount of annual money collected by the Company through a Governmental Undergrounding Fee added to the electric bills of the Company's customers located in an Underground Assessment Area within the boundaries of the Local Government. As set forth in Section 12.06 of the Company's tariff, the Annual Recovery Amount shall be calculated in accordance with the following formula:

$$\text{Annual Recovery Amount} = ((FC + GC) * I) / (1 - (1 / (1 + I)^n))$$

The components of this Annual Recovery Amount formula are further defined in this Definitions section.

- "Facility Charge" or "FC" shall be defined consistent with Section 12.05(2) of the Tariff, and for this Contract has a value of \$ \_\_\_\_\_.

- "Governmental Cost" or "GC" shall mean the sum of the following costs incurred by the Local Government in connection with this Conversion:

(a) A surcharge of \$ \_\_\_\_\_, which (i) shall be based on the lesser of ten percent (10%) of the Facility Charge or \$50,000; and (ii) shall be assessed to reimburse Company for a portion of Company's initial programming costs to implement customer billing processes under Section 12.06 of the Tariff.

(b) Reimbursement to the Company of \$ \_\_\_\_\_, for Company's additional programming costs required to bill customers in the Underground Assessment Area.

(c) Ancillary costs of \$ \_\_\_\_\_, which shall be based on the Local Government's costs related to the Conversion project (such as right of way acquisition, preparation, restoration and financing costs); and

(Continued on next page)

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

EFFECTIVE: April 29, 2013

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(d) At Local Government's option, costs of \$ \_\_\_\_\_ for: (i) the total cost charged by electrical contractor(s) hired by the Local Government to convert customer facilities (such as service entrances and meter bases) to receive underground service for all residential customers requiring such conversion and/or (ii) a portion of the total cost charged by such electrical contractor(s) (based on a minimum average charge per customer determined by the local government), to convert customer facilities to receive underground service for all commercial/industrial customers requiring such conversion.

4. "Governmental Undergrounding Fee" shall mean the monthly charge billed to electric customers located in the Underground Assessment Area.

5. "Interest Rate" or "I" shall mean \_\_\_\_\_ percent, which shall represent the interest rate on the bonds or other financial instruments utilized by the Local Government to finance the Facility Charge and Governmental Cost, adjusted for financing costs.

6. "Number of Years" or "n" shall mean \_\_\_\_\_, which shall represent the number of years over which the Facility Charge and the Governmental Cost is to be recovered by the Local Government. The Number of Years shall not exceed twenty (20) years.

7. "Underground Assessment Area" shall mean that certain area as specified by the Local Government (in its sole discretion) and as depicted on the map attached hereto as Attachment B to this Contract (and incorporated by its reference) which: i) consists of all or any contiguous portion of the area within the Local Government's corporate limits; and ii) may overlap all portions of other Underground Assessment Areas previously established by the Local Government.

**B. Calculation of Annual Recovery Amount:**

The Annual Recovery Amount for this project shall be fixed at \$ \_\_\_\_\_ per year until the Contract is fulfilled and terminated; provided, however in no event shall the Annual Recovery Amount exceed the amount that would have been recoverable over the most recent twelve (12) month period for which actual customer billing data is available using the maximum Governmental Undergrounding Fee under Section 12.06(4) (a) or (b) of the Tariff.

**C. Underground Assessment Area:**

1. The Local Government agrees that it has provided the information contained in Attachment B to reflect the geographic boundaries of the Underground Assessment Area, from which the Company shall assess the Governmental Undergrounding Fee on all electric customers located within these boundaries. The Local Government warrants and represents that it provided these boundaries based on a determination, in its sole discretion, that the electric customers located within these boundaries benefit sufficiently from the underground Conversion project to warrant the payment of a Governmental Undergrounding Fee to recover the costs of the Conversion project.

2. The Local Government represents that it has authority to establish such boundaries and that it has complied with all applicable laws, rules, and regulations with respect to the consideration and setting of said boundaries. The Local Government, to the extent permitted by law without waiving or limiting any defenses of sovereign immunity, shall hold harmless and indemnify the Company for all loss to third parties resulting from the Local Government's selection of the boundaries, except when the loss occurs due to the negligent actions of the Company. Nothing herein shall be intended to serve as a waiver of limitation of Local Government's sovereign immunity defenses as allowed by law.

(Continued on next page)

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

EFFECTIVE: \_\_\_\_\_ MUNI UG



SECTION NO. VII¶  
ORIGINAL SHEET NO. 7.062¶

Page 3 of 4¶

¶  
**D. Governmental Undergrounding Fee:¶**

1. The Governmental Undergrounding Fee shall be based on a uniform percentage of customers' total net charges for electric service calculated to produce the Annual Recovery Amount, net of regulatory assessment fees, if any. Except as provided in Paragraph 4(b) of Section 12.06 of the Tariff, the total Governmental Undergrounding Fee billed to a customer's account shall not exceed the lesser of (i) 15 percent of the customer's total net electric service charges, or (ii) a maximum monthly amount of \$30 for residential customers and \$50 for each 5,000 kilowatt-hour increment of consumption for non-residential customers. The maximum monthly amount shall apply to each line of billing in the case of a customer receiving a single bill for multiple service points, and to each occupancy unit in the case of a master metered customer. For the avoidance of all doubt in calculating the Governmental Undergrounding Fee, the Company will prepare a workpaper showing the calculation of the Governmental Undergrounding Fee (attached hereto as Attachment C and incorporated herein by its reference).¶
2. The parties agree that if the Local Government desires to apply a Governmental Undergrounding Fee based on a higher percentage or maximum monthly amount than specified in paragraph (D)(1) above, then the parties shall jointly petition the Florida Public Service Commission for approval of such increased amount. Absent such approval, the amounts for the Governmental Undergrounding Fee shall not be set above those maximum amounts.¶
3. The Governmental Undergrounding Fee shall be recalculated for each twelve (12) month period during its effectiveness following the initial annual period. The recalculation shall be based on the Company's most current projections for the upcoming period, and shall include a true-up adjustment based on the difference between projected and actual recovery for the prior twelve (12) month period. The first annual true-up period for this Contract shall begin with the first billing cycle for the month following the implementation of the billing for the Governmental Undergrounding Fee.¶
4. No later than the twentieth (20<sup>th</sup>) day of the following month, the Company shall pay the Local Government the aggregated total Governmental Undergrounding Fee that the Company has collected from each customer in the Underground Assessment Area. The monthly payment shall be made by wire transfer. Any monthly payment or any portion thereof made twenty (20) calendar days after the due date without good cause shall be subject to interest at the 30-day commercial paper rate per annum.¶

¶  
**E. Customer Notification:¶**

1. At least thirty (30) calendar days before the execution of this Contract, the Local Government shall mail a notice to each electric customer located within the proposed Underground Assessment Area stating the Local Government's intention to recover the cost of the underground Conversion project in question through a Governmental Undergrounding Fee on the customer's electric bill. The notice shall include, at a minimum: (i) a description of the underground Conversion project; (ii) an estimate of the Governmental Undergrounding Fee (as a percentage of total net electric charges) and the maximum monthly amount; (iii) the month in which billing of the Governmental Undergrounding Fee is expected to commence; (iv) the number of years over which the Governmental Undergrounding Fee is to be imposed; and (v) a postage-prepaid form on which the customer may submit comments to the Local Government. The actual notice sent to the customers is attached to this Contract as Attachment D.¶
2. The Local Government warrants and represents that it has timely completed the obligation referenced in the above paragraph by timely mailing the requisite notice to all required customers.¶

**F. Assignment:¶**

The Local Government shall not assign, delegate or otherwise dispose of all or any portion of the Contract (including any benefits or obligations hereunder) without the prior written consent of the Company. Upon prior written notice and with the consent of Company (such consent not to be unreasonably withheld), the Local Government may assign the Contract. The Company, in Company's sole discretion, may require any Company approved Local Government assignee to execute a new contract and agree to all the requirements of the new contract prior to approval of the assignment request. Any attempted assignment or delegation without the Company's prior written consent shall be ineffective and void. The terms and conditions of this Contract shall be binding upon and inure to the benefit of any and all successors and/or assigns of the Company. The terms and conditions of this Contract shall be binding upon and inure to the benefit of any and all successors and/or approved assigns of the Local Government. Notwithstanding any provision herein, the Agreement shall not confer or be construed in any manner to confer, directly or indirectly, any rights, privileges, benefits, and/or remedies, upon any parties other than the parties hereto and their respective successors and/or permitted assigns.

(Continued on next page)¶

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

EFFECTIVE: \_\_\_\_\_ MUNI UG¶



SECTION NO. VII  
ORIGINAL SHEET NO. 7.063

Page 4 of 4

**G. Miscellaneous:**

1. In executing this Contract, the Company does not, nor should it be construed to extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with the Local Government or any assignee of this Contract.
2. This Contract shall be governed by and construed and enforced in accordance with the laws, rules and regulations of the State of Florida and the Tariff as may be modified, revised, supplemented, changed, or amended from time to time. In the event of any conflict between the terms of this Contract and the provisions of the Tariff, the provisions of the Tariff and any applicable Florida Public Service Commission rules shall control, as hereafter revised, amended, or supplemented.
3. The Tariff and associated technical terms and abbreviations, general rules and regulations and standard electric service requirements, as may be applicable, are incorporated by reference.
4. This Contract contains the entire agreement of the Company and Local Government relating to the subject matter herein and supersedes all previous and contemporaneous agreements, understandings, usages of trade, courses of dealing or representations, either written or oral, heretofore in effect between the Company and the Local Government.
5. This Contract may only be modified by a written agreement signed by both the Company and the Local Government expressly modifying the Contract. All provisions of the Contract providing for indemnification or limitation of or protection against liability shall survive the termination, cancellation, or expiration of the Contract.
6. This Contract shall terminate when the Company has fully collected the Government Cost and the Facility Charge from customers located in the Underground Assessment Area.

¶  
¶

IN WITNESS WHEREOF, the Local Government has executed this Contract the day and year first written above.

¶

LOCAL GOVERNMENT \_\_\_\_\_ COMPANY \_\_\_\_\_

¶  
¶  
¶

Signature of Local Government or Authorized Representative \_\_\_\_\_ Signature of Company Representative \_\_\_\_\_

¶

Printed Name of Local Government Representative \_\_\_\_\_ Printed Name of Company Representative \_\_\_\_\_

¶

Title of Authorized Representative \_\_\_\_\_ Title of Company Representative \_\_\_\_\_

¶

¶

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

EFFECTIVE: \_\_\_\_\_ MUNI UG



SECTION NO. VI  
~~FOURTH-FIFTH~~ REVISED SHEET NO. 6.370  
CANCELS ~~THIRD-FOURTH~~ REVISED SHEET NO. 6.370

Page 1 of 2

RATE SCHEDULE PPS-1  
GENERAL SERVICE – PREMIER POWER SERVICE RIDER

Availability:

Available throughout the entire territory served by the Company.

Applicable:

This Rider is applicable on a voluntary basis to a customer with a minimum measured demand of 50 kW taking service under General Service-non-residential Rate Schedules GS-1, GST-1, GSD-1, GSDD-1, or GGLM-1, CS-1, CS-2, CS-3, CST-1, CST-2, CST-3, IS-1, IS-2, IST-1, or IST-2 when the customer contracts with the Company to own, install, operate and maintain generation on the customer's premises for the primary purpose of providing a back-up supply of electric service in the event normal electric supply is interrupted. The applicable General Service-non-residential Rate Schedule with which this Rider is used is modified only as required by the terms hereof.

Character of Service:

Continuous service, alternating current, 60 cycle, single-phase or three-phase, at the Company's standard distribution voltage available.

Limitation of Service:

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

Monthly Service Payment:

The Monthly Service Payment under this Rider is in addition to the monthly rate determined under the applicable General Service-non-residential Rate Schedule and other riders, if applicable, and shall be calculated based on the following formula:

$$\text{Monthly Service Payment} = \text{Capital Cost} + \text{Expenses}$$

Where:

Capital Cost equals a carrying cost times the levelized plant investment based upon the estimated installed cost of facilities. The carrying cost includes the cost of capital, reflecting current capital structure and most recent approved return on common equity; income taxes; property taxes; general plant; administrative and general plant-related expenses; and intangible plant. Any replacement cost expected to be incurred during the Contract Period will also be included. Any special equipment installed by the Company that is not necessary to support back-up service to the customer shall not be included in the Monthly Service Payment.

Expenses shall be levelized over the Contract Term and shall include: Company operations and maintenance (O&M) expenses times a carrying cost that is inclusive of administrative and general and labor expenses related to O&M and cash working capital; third-party expenses for operations and maintenance, warranties, or insurance; fuel expense, based upon an estimate of the cost of fuel consumed for normal back-up operation and testing, less a credit based upon the system average cost of fuel and purchased power included in retail tariffs; inventory cost associated with fuel, materials, and supplies times a carrying cost that recovers the cost of capital and income taxes; depreciation expense, adjusted for the estimated salvage value at the end of the Contract Term; deferred income taxes; and customer accounting, customer service and information, program administration, and sales expenses. Any expenses incurred in operating the on-site generation for other than normal back-up operation and testing shall not be included in the Monthly Service Payment.

Installation cost will be recovered over the initial Contract Term. Pricing of capital-related costs and expenses shall be based upon no shorter than 10 years from the equipment's original in-service date and the resulting Monthly Service Payment shall include an upward adjustment for Contract Terms that expire prior to 10 years from this in-service date.

(Continued on Page No. 2)

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

EFFECTIVE: April 28, 2013



SECTION NO. V  
~~FOURTH-FIFTH~~ REVISED SHEET NO. 6.371  
CANCELS ~~THIRD-FOURTH~~ REVISED SHEET NO. 6.371

Page 2 of 2

RATE SCHEDULE PPS-1  
GENERAL SERVICE – PREMIER POWER SERVICE RIDER

(Continued from Page No. 1)

**Definition of Services:**

Services provided under the terms of this Rider shall be provided by an on-site generator supplied by the Company for the purpose of continuing the supply of electricity to the customer's site in the event the normal electric supply is interrupted. In cases where the customer's total electric requirement exceeds the generation capability, the customer shall arrange its electrical requirements to ensure that the electrical requirement to be supplied when normal service is interrupted will not be greater than the generation capacity. The minimum generator capacity supplied by the Company under this rider shall be not less than 50 kW.

The Company shall have the right to operate the on-site generator at all times it deems appropriate, including, but not limited to, for the purposes of testing of the generator to verify that it will operate within required parameters, and dispatching the generator to assist in meeting system demand or for other system benefits. The generator and appropriate transfer switching shall be electrically connected on the Company's side of the billing meter; therefore, billing for generation provided during normal back-up operation and testing shall continue to be billed under the applicable ~~General Service-non-residential~~ Rate Schedule based ~~on~~ solely upon consumption registered on the Company's billing meter.

**Minimum Monthly Bill:**

The minimum monthly bill shall be the customer's minimum bill under the applicable ~~General Service-non-residential~~ Rate Schedule, plus the Monthly Service Payment under this Rider.

**Terms of Payment:**

Bills rendered hereunder are payable within the time limit specified on the bill at Company-designated locations.

**Term of Service:**

Service under this Rider shall be for the term specified in the Premier Power Service Contract.

**Service Contract:**

The Company and the customer shall execute a Premier Power Service Contract that will state the amount of the customer's Monthly Service Payment determined in accordance with this Rider, the Contract Term, and other terms and conditions pertinent to providing Premier Power Service.

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

EFFECTIVE: ~~April 28, 2013~~

# Item 12

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-**

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**DATE:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Guffey) *SKG ESD PAB WK7*  
Office of the General Counsel (Trierweiler) *TC*

**RE:** Docket No. 160148-EU – Joint petition for approval of territorial agreement in Polk County by City of Bartow and DEF Florida, LLC.

**AGENDA:** 08/09/16 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

*2016 JUL 28 AM 9:21*  
*RECEIVED-FPSC*  
*COMMISSION CLERK*

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### Case Background

On June 9, 2016, the City of Bartow (Bartow) and Duke Energy Florida, LLC (DEF) filed a joint petition for approval of an amended territorial agreement (agreement) in Polk County. The proposed agreement is Attachment A to the petition, while the maps and written descriptions delineating the area to be served by the proposed agreement are provided in the petition as Exhibits A and D respectively (due to the volume of the exhibits, they have not been attached to this recommendation).

The Commission approved the existing territorial agreement between Bartow and DEF in 1986.<sup>1</sup> The existing agreement was for a term of 30 years and the joint petitioners desire to amend and continue the existing agreement. The joint petitioners negotiated the proposed agreement

<sup>1</sup> Order No. 16231, issued June 12, 1986, in docket No. 851006-EU, *In re: Joint stipulation and petition of Florida Power Corporation for approval of territorial agreement with City of Bartow.*

Docket No. 160148-EU

Date: July 28, 2016

delineating their respective service boundaries in Polk County for a term of 30 years. If approved, the agreement would result in the transfer of two commercial customers from DEF to Bartow. There will be no customer transfers from Bartow to DEF. The transfer will be implemented when it's operationally feasible for Bartow to serve the two customers, but no later than 12 months after the approval of the proposed agreement by the Commission.

During the evaluation of this joint petition, staff issued one data request to the joint petitioners for which responses were received on June 28, 2016. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).



## Discussion of Issues

**Issue 1:** Should the Commission approve the proposed territorial agreement between Bartow and DEF?

**Recommendation:** Yes, the Commission should approve the proposed territorial agreement between Bartow and DEF. (Guffey)

**Staff Analysis:** Pursuant to Section 366.04(2)(d), F.S. and Rule 25-6.0440(2), Florida Administrative Code (F.A.C.), the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.<sup>2</sup>

Through the proposed agreement, the joint petitioners desire to essentially continue the existing agreement and clearly delineate the territorial boundaries within Polk County in order to serve customers reliably and economically. The proposed agreement does not change the territorial boundaries; however, two commercial customers will be transferred from DEF to Bartow. In response to staff's data request, DEF stated that during the in-field due diligence process to determine if there were any encroachments by one utility into the service area territory of the other utility, one of the two customers that will be transferred was discovered within Bartow's service territory but was being served by DEF. The second customer to be transferred is currently being served by DEF because it was not operationally and economically feasible for Bartow to serve the customer previously. DEF and Bartow have agreed that Bartow will serve the two customers if the proposed agreement is approved.

In addition to transferring the two customers, the joint petitioners updated the territorial boundary maps using Geographic Information System (GIS) software to demonstrate the boundary lines in greater detail. The petitioners negotiated the proposed agreement for a 30-year term and after the expiration of that term the agreement will remain in effect until and unless either party provides a written notice of termination. Pursuant to Section 1.8 of the proposed agreement, the effective date of the agreement would be the date on which a Consummating Order is issued by the Commission, provided no timely protests are filed.

The petitioners state that in accordance with Rule 25-6.0440(1)(d), F.A.C., the two commercial customers that would be transferred between utilities pursuant to the proposed agreement were notified by mail of the transfer and a description of the differences between DEF's and Bartow's rates was provided.<sup>3</sup> As of March 2016, the rate comparison for these customers, using 1,500 kilowatt hours, was \$175.95 for DEF and \$204.50 for Bartow. DEF will apply the customers' deposits to their last electric bill and will directly refund any surplus. With regard to the degree of acceptance by the affected customers, the petitioners state that DEF has not received any feedback, questions, or concerns from the customers. The joint petitioners expect that the

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<sup>2</sup> Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

<sup>3</sup> Petition Exhibit C

customer transfers will be completed within 12 months of the effective date of the proposed agreement and will notify the Commission in writing if additional time is needed.

Pursuant to Section 3.3 (Compensation of Related Service Facilities) and Section 3.4 (Transfer Segment Closings) of the proposed agreement, Bartow may elect to purchase the electric facilities used exclusively for providing electric service to the transferred customers by using a common engineering cost estimation methodology such as the Handy-Whitman index to determine the value. In response to staff's data request, the petitioners stated that at this time the parties do not plan to exchange or purchase the required facilities. Upon further inquiry, the petitioners stated that Bartow will not be using DEF's facilities to serve the two customers. DEF will remove its facilities after the transfer and either retire or re-use the facilities if possible.

The joint petitioners assert that the proposed agreement will avoid duplication of services and wasteful expenditures and will protect the public health and safety from potentially hazardous conditions. The joint petitioners believe and represent that the Commission's approval of the proposed agreement is in the public interest.

After review of the petition, the proposed agreement, and the joint petitioners' responses to staff's data request, staff believes that the proposed agreement is in the public interest and will enable Bartow and DEF to better serve their current and future customers. It appears that the proposed agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. As such, staff believes that the proposed agreement between Bartow and DEF will not cause a detriment to the public interest and recommends that the Commission approve it.

**Issue 2:** Should this docket be closed?

**Recommendation:** If no protest is filed by a person whose substantial interests are affected within 21days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Trierweiler)

**Staff Analysis:** If no protest is filed by a person whose substantial interests are affected within 21days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

# Item 13

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:** July 28, 2016

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Guffey) *skg EJD PO & WK7*  
Office of the General Counsel (Trierweiler) *JSC*

**RE:** Docket No. 160152-EU – Joint petition for approval of territorial agreement in Lake County by Sumter Electric Cooperative, Inc. and City of Mount Dora.

**AGENDA:** 08/09/16 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

2016 JUL 28 AM 9:22  
RECEIVED-FPSC  
COMMISSION CLERK

### Case Background

On June 17, 2016, the City of Mount Dora (Mount Dora) and Sumter Electric Cooperative, Inc. (SECO) filed a joint petition for approval of their territorial agreement (agreement) in Lake County. The proposed agreement is attached as Exhibit 1 to the petition, while the maps and written descriptions are attached as Composite Exhibit A, Composite Exhibit 2, and Exhibit 3 to the agreement (due to the volume of the exhibits, they have not been attached to this recommendation).

The Commission approved the existing territorial agreement between Mount Dora and SECO in 1996.<sup>1</sup> The existing agreement was for a term of 20 years and the joint petitioners wish to continue this territorial agreement delineating their respective service boundaries in Lake County

<sup>1</sup> Order No. PSC-96-0886-FOF-EU, issued July 9, 1996, in Docket No. 960396-EU, *In re: Joint petition for approval of territorial agreement between Sumter Electric Cooperative, Inc. and City of Mount Dora.*

Docket No. 160152-EU

Date: July 28, 2016

for a term of 20 years. There will be no customer or facility transfers in this agreement. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

## Discussion of Issues

**Issue 1:** Should the Commission approve the proposed territorial agreement between Mount Dora and SECO?

**Recommendation:** Yes, the Commission should approve the proposed territorial agreement between Mount Dora and SECO. (Guffey)

**Staff Analysis:** Pursuant to Section 366.04(2)(d), F.S. and Rule 25-6.0440(2), Florida Administrative Code (F.A.C.), the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.<sup>2</sup>

SECO and Mount Dora executed the new agreement on March 1, 2016, to replace the current agreement that expired in July 2016. Through the proposed agreement, the joint petitioners desire to essentially continue the existing agreement with no changes to the territorial boundary lines and no customer transfers. In response to staff inquiry, the petitioners listed the differences between the current and the proposed agreements.<sup>3</sup> All modifications are designed to address possible future events. The modifications include clarification that the territories will not change as a result of expansion of future municipal boundaries, new details to assist in assigning future new customers to the appropriate service territory, new language requiring referral of future service requests made to the wrong utility be referred to the other party, and revisions to the compensation provisions applicable if and when facilities are transferred in the future.

The proposed agreement will remain in effect for 20 years, and after the initial 20-year term the agreement will automatically renew for successive one-year renewal terms unless a party terminates the agreement with 12 months prior written notification.

Per the petition, no customers will be transferred and there are no extra-territorial customers under the new agreement. Since no customers or facilities are being transferred, there is no purchase price to be considered, and no notice to customers is required pursuant to Rule 25-6.0440(1)(d), F.A.C. Each party to the agreement will operate and maintain its lines and facilities. The joint petitioners assert that the proposed agreement will serve to prevent uneconomic duplication of facilities and therefore the proposed agreement is of public interest and should be approved.

After review of the petition and the proposed agreement, staff believes that the proposed agreement is in the public interest and will enable Mount Dora and SECO to serve their current and future customers. It appears that the proposed agreement eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. As such, staff believes that the proposed agreement between Mount Dora and SECO will not cause a detriment to the public interest and recommends that the Commission approve it.

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<sup>2</sup> Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission, 469 So. 2d 731 (Fla. 1985).

<sup>3</sup> Email provided to staff on July 12, 2016, has been placed in the docket file.

**Issue 2:** Should this docket be closed?

**Recommendation:** If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Trierweiler)

**Staff Analysis:** If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.