

Table of Contents
 Commission Conference Agenda
 February 7, 2017

1**	Consent Agenda	1
2	Docket No. 160175-GU – Petition for review and determination on the project construction and gas transportation agreement between NUI Utilities, Inc. d/b/a City Gas Company of Florida and Florida Crystals Corporation, and approval of an interim service arrangement.	4
3**	Docket No. 160251-EI – Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Matthew by Florida Power & Light Company.	5
4**	Docket No. 140217-WU – Application for staff-assisted rate case in Sumter County by Cedar Acres, Inc.	7
5**PAA	Docket No. 150257-WS – Application for staff-assisted rate case in Marion County, by East Marion Utilities, LLC.	8
6**PAA	Docket No. 160065-WU – Application for increase in water rates in Charlotte County by Bocilla Utilities, Inc.	12
7**PAA	Docket No. 160220-WS – Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.	18
8**PAA	Docket No. 160144-WU – Application for transfer of Certificate No. 288-W in Pasco County from Orangeland Water Supply to Orange Land Utilities, LLC. ..	20
9**PAA	Docket No. 160242-EU – Joint petition for approval of territorial agreement in Alachua County by Clay Electric Cooperative, Inc. and the City of Newberry. ..	23
10**	Docket No. 160245-EI – Petition for approval of a new optional pilot LED streetlight tariff, by Florida Power & Light Company.	24
11	Docket No. 150071-SU – Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.	25

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: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (C. Beard) *CB*
Office of the General Counsel (S. Cuello) *SC*

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 2/7/2017 - 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>
160147-TX	FL Network Transport, LLC	8900

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

State of Florida



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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (E. Wooten, S. Deas, G. Fogleman) *EW JD AF BMY*
Office of the General Counsel (C. Murphy) *CM*

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

AGENDA: 2/7/2017 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
160247-TC	Legacy Long Distance International, Inc.	8903

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

State of Florida



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

DATE: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Richards, Buys, Cicchetti) *CRB*
Office of the General Counsel (Taylor) *WDT/SC* *ALM*

RE: Docket No. 160244-GU – Application for authorization to issue common stock, preferred stock, and secured and/or unsecured debt, and to enter into agreements for interest rate swap products, equity products and other financial derivatives in 2017, by Chesapeake Utilities Corporation.

AGENDA: 02/07/17 – Consent Agenda – Final Order – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Please place the following securities application on the consent agenda for approval.

Docket No. 160244-GU – Application for authorization to issue common stock, preferred stock and secured and/or unsecured debt, and to enter into agreements for interest rate swap products, equity products and other financial derivatives in 2017, by Chesapeake Utilities Corporation.

Chesapeake Utilities Corporation (Chesapeake or Utility) seeks authority to issue during calendar year 2017: up to 7,965,000 shares of Chesapeake common stock, up to 2,000,000 shares of Chesapeake preferred stock, up to \$450 million in secured and/or unsecured debt; to enter into agreements up to \$150 million in interest rate swap products, equity products and other financial derivatives; and to issue short-term obligations in an amount not to exceed \$275 million.

Chesapeake allocates funds to the Florida Division, Florida Public Utilities, and Indiantown Gas Company on an as-needed basis, although in no event would such allocations exceed 75 percent of the proposed equity securities (common stock and preferred stock), long-term debt, short-term debt, interest rate swap products, equity products, and financial derivatives.

Pursuant to Section 366.04, Florida Statutes (F.S.), the Commission shall have jurisdiction to regulate and supervise each public utility in the issuance and sale of its securities, except a security which is a note or draft maturing not more than one year after the date of such issuance and sale and aggregating not more than five percent of the par value of the other securities of the public utility then outstanding.

For 2017, five percent of the Chesapeake's aggregate outstanding balance of other securities (i.e., common stock equity at par value and long term debt) is \$8,186,579. Chesapeake requests approval to issue short-term debt in excess of five percent of the Utility's aggregate balance of other securities. Staff believes the Utility's request conforms to Section 366.04, F.S. and the dollar amounts proposed in the application are reasonable.

Staff has reviewed the Utility's projected capital expenditures. The amount requested by Chesapeake exceeds its expected capital expenditures. The additional amount requested exceeding the projected capital expenditures allows for financial flexibility for the purposes enumerated in the Utility's petition, as well as, unexpected events such as hurricanes, financial market disruptions, and other unforeseen circumstances. Staff believes the requested amounts are appropriate. Staff recommends the Utility's petition to issue securities be approved.

For monitoring purposes, this docket should remain open until April 26, 2018, to allow the Utility time to file the required Consummation Report.

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-

DATE: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Leathers, Crawford) *MLJ JSC*
Division of Economics (Guffey, Draper, Rome) *OKR ESTD SKGCS*

RE: Docket No. 160175-GU – Petition for review and determination on the project construction and gas transportation agreement between NUI Utilities, Inc. d/b/a City Gas Company of Florida and Florida Crystals Corporation, and approval of an interim service arrangement.

AGENDA: 02/07/17 – Regular Agenda – Motion for Clarification – Oral Argument Not Requested – Decision Prior to Hearing – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Patronis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Florida City Gas (FCG or City Gas) is an investor-owned natural gas utility subject to the Commission's jurisdiction, pursuant to Section 366.02(1), Florida Statutes (F.S.). Florida Crystals Corporation (Florida Crystals or Crystals) is a national sugar manufacturer.

On July 22, 2016, City Gas filed a Petition for Review and Determination on the "Project Construction and Gas Transportation Agreement (GTA) between NUI Utilities, Inc. d/b/a City Gas Company of Florida and Florida Crystals Corporation dated April 24, 2001" and Approval of an Interim Service Arrangement. City Gas filed a subsequent Motion for Approval of a Temporary Interim Service Arrangement on August 31, 2016. Florida Crystals filed several

preliminary, procedural motions including: a Motion to be Designated a Party or in the Alternative Motion to Intervene; a Motion to Dismiss City Gas's Petition, along with a Request for Oral Argument; and a Response in Opposition to City Gas's Motion for Approval of a Temporary Interim Service Arrangement, along with a Request for Oral Argument. On September 19, 2016, City Gas filed its Response in Opposition to Florida Crystals' Motion to Dismiss Petition.

At the December 6, 2016 Agenda Conference, after considering the written and oral arguments provided by the parties, the Commission voted: (1) to deny Crystals' Motion to Dismiss; (2) to set the matter for hearing; (3) to grant Crystals' Motion to be Designated a Party or in the Alternative Motion to Intervene; (4) to deny City Gas's August 31, 2016 Motion for Approval of a Temporary Interim Service Arrangement; and (5) that the Make-Up Period GTA rates will be in effect for a transition period beginning on December 6, 2016, subject to true-up, until a final Commission decision in this docket.

On January 6, 2017, Florida Crystals filed its timely Motion for Clarification of Order No. PSC-16-0581-PCO-GU, pursuant to Rules 25-22.0376 and 28-106.204, Florida Administrative Code (F.A.C.), which is the subject of this recommendation. On January 13, 2017, City Gas filed its response to Crystals' motion. The Commission has jurisdiction pursuant to Sections 366.04, 366.05, and 366.06, F.S.

Discussion of Issues

Issue 1: Should the Commission grant Florida Crystals Corporation's Motion for Clarification of Order No. PSC-16-0581-PCO-GU?

Recommendation: Yes. The Commission should clarify that Order No. PSC-16-0581-PCO-GU is preliminary and based solely on the representations of the parties that the Commission has before it at this time. Further, the Commission should clarify that no party is precluded from raising and identifying appropriate issues or from presenting evidence and argument on any issue in this case. (Leathers)

Staff Analysis:

Florida Crystals' Motion for Clarification

Florida Crystals requested that the Commission clarify Order No. PSC-16-0581-PCO-GU (Order) to state that:

This Order is preliminary and based solely on the representations of the Parties that the Commission has before it at this time. No Party is precluded from raising and identifying appropriate issues or from presenting evidence and argument on any issue in this case.

Crystals asserted that this clarification is necessary because it believes certain statements in the Order may be susceptible to being construed or interpreted as being declarative and potentially determinative of issues in this docket. Crystals also represented that it conferred with both City Gas and Commission staff prior to filing its motion and understood that both City Gas and staff agreed that such clarification is appropriate and did not oppose such clarification being granted.

City Gas's Response

On January 13, 2017, City Gas filed its response to Crystals' motion. City Gas stated that its representatives previously informed Crystals that they believe clarification is unnecessary. Further, City Gas did not agree to Crystals' representation that City Gas agreed that clarification is appropriate. However, City Gas confirmed that it did agree to not oppose the motion.

Analysis and Conclusion

Staff believes that the Commission intended for the Order to be preliminary in nature. As such, staff does not believe that the Order may be susceptible to being construed or interpreted as being declarative or potentially determinative of issues in this docket. However, to the extent that Crystals' proposed language clarifies the Commission's intent, staff does not oppose Crystals' Motion for Clarification and recommends that it be granted.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the Commission's final action in this docket. (Leathers)

Staff Analysis: This docket should remain open pending the Commission's final action in this docket.

Item 3

State of Florida



Public Service Commission

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

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

DATE: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Slemkewicz, Archer, D. Buys, Mouring)
Division of Economics (Rohlf, Draper) *JS*
Office of the General Counsel (Brownless) *DB* *BE* *ALM*

RE: Docket No. 160251-EI – Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Matthew by Florida Power & Light Company.

AGENDA: 02/07/17 – Regular Agenda – Preliminary Procedural – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: 03/01/17 (Requested Implementation Date)

SPECIAL INSTRUCTIONS: None

Case Background

On December 29, 2016, Florida Power & Light Company (FPL) filed a petition for a limited proceeding seeking authority to implement an interim storm restoration recovery charge to recover a total of \$318.5 million for the incremental restoration costs related to Hurricane Matthew and to replenish its storm reserve. In its petition, FPL asserts that as a result of Hurricane Matthew, FPL incurred total retail recoverable costs of approximately \$293.8 million, less its pre-storm storm reserve balance of \$93.1 million, resulting in net recoverable costs of \$200.7 million. In addition, FPL proposes to replenish its storm reserve to the \$117.1 million balance that existed on January 2, 2013. Interest and the regulatory assessment fee gross-up add an additional \$0.6 million to the recoverable costs.

Docket No. 160251-EI

Date: January 26, 2017

FPL filed its petition pursuant to the provisions of the Revised Stipulation and Settlement Agreement (RSSA) approved by the Commission in Order No. PSC-13-0023-S-EI.¹ Pursuant to Paragraph 5 of the RSSA, FPL can recover storm costs, not exceeding \$4.00/1,000 kWh on monthly residential customer bills, on an interim basis beginning sixty days following the filing of a petition for recovery. In its petition, FPL has requested an interim storm restoration recovery charge of \$3.36 on a monthly 1,000 kWh residential bill, effective March 1, 2017. The interim storm restoration recovery charge would remain in effect for a 12-month period.

The Office of Public Counsel has intervened in this docket pursuant to Order No. PSC-17-0030-PCO-EI, issued January 18, 2017.

The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, 366.06, and 366.076, Florida Statutes.

¹ Order No. PSC-13-0023-S-EI, issued January 14, 2013, in Docket No. 120015-EI, *In re: Petition for increase in rates by Florida Power & Light Company*.

Discussion of Issues

Issue 1: Should the Commission authorize FPL to implement a 2017 Interim Storm Restoration Recovery Charge?

Recommendation: Yes. The Commission should authorize FPL to implement a 2017 Interim Storm Restoration Recovery Charge, subject to refund. Once the total actual storm costs are known, FPL should be required to file documentation of the storm costs for Commission review and true up of any excess or shortfall. (Slemkewicz)

Staff Analysis: As stated in the case background, FPL filed a petition for a limited proceeding seeking authority to implement an interim storm restoration recovery charge to recover a total of \$318.5 million for the incremental restoration costs related to Hurricane Matthew and to replenish its storm reserve. The requested recovery of \$318.5 million² represents net retail recoverable costs of approximately \$200.7 million, plus an additional \$117.1 million to replenish the storm reserve to the balance that existed on January 2, 2013. In addition, the \$318.5 million includes interest of \$0.4 million and regulatory assessment fee expense of \$0.2 million. The petition was filed pursuant to the provisions of the RSSA approved by the Commission in Order No. PSC-13-0023-S-EI.³ Pursuant to Paragraph 5 of the RSSA, FPL can begin to recover storm costs, not exceeding \$4.00/1,000 kWh on monthly residential customer bills, on an interim basis beginning sixty days following the filing of a petition for recovery. FPL has requested an interim storm restoration recovery charge of \$3.36 on a monthly 1,000 kWh residential bill, effective for a 12-month period beginning March 1, 2017.

In its petition, FPL asserts that it incurred total retail recoverable costs of approximately \$293.8 million as a result of Hurricane Matthew. This amount was calculated in accordance with the Incremental Cost and Capitalization Approach (ICCA) methodology prescribed in Rule 25-6.0143, Florida Administrative Code (F.A.C.). The net retail recoverable costs of \$200.1 million were determined by reducing the \$293.8 million total costs by the pre-storm storm reserve balance of \$93.1 million. Paragraph 5 of the RSSA also allows FPL to request the replenishment of its storm reserve to the \$117.1 million balance that existed on January 2, 2013, the implementation date of the RSSA.

The approval of an interim storm restoration recovery charge is preliminary in nature and is subject to refund pending a further review once the total actual storm restoration costs are known. After the actual costs are reviewed for prudence and reasonableness, and are compared to the actual amount recovered through the interim storm restoration recovery charge, a determination will be made whether any over/under recovery has occurred. The disposition of any over/under recovery, and associated interest, would be considered by the Commission at a later date.

Based on a review of the information provided by FPL in its petition, staff recommends that the Commission authorize FPL to implement a 2017 Interim Storm Restoration Recovery Charge,

² See Document No. 09594-16, Appendix A, Page 1 of 3 (FPL Petition).

³ Order No. PSC-13-0023-S-EI, issued January 14, 2013, in Docket No. 120015-EI, *In re: Petition for increase in rates by Florida Power & Light Company*.

subject to refund. Once the total actual storm costs are known, FPL should be required to file documentation of the storm costs for Commission review and true up of any excess or shortfall.

Issue 2: Should the Commission approve FPL's request to establish a regulatory asset for the debit balance in Account 228.1, Accumulated Provision for Property Insurance?

Recommendation: No. The Commission should not approve FPL's request to establish a regulatory asset for the debit balance in Account 228.1, Accumulated Provision for Property Insurance? (Slemkewicz)

Staff Analysis: In its petition, FPL asserts that it has maintained the amount of eligible restoration costs that exceed the pre-storm balance of the storm reserve as a debit in Account 228.1 as required by Rule 25-6.0143(1)(i), F.A.C. However, FPL has requested approval to establish a regulatory asset to be recorded in Account 182.1, Extraordinary Property Losses, and transfer the debit balance in Account 228.1 to Account 182.1, effective March 1, 2017. FPL contends that this treatment would be consistent with the storm cost recovery for the 2004 storm season approved by the Commission in Order No. PSC-05-0937-FOF-EI.⁴

When Order No. PSC-05-0937-FOF-EI was issued in 2005, Rule 25-6.0143, F.A.C., stated the following concerning Account 228.1:

(1) Account No. 228.1 Accumulated Provision for Property Insurance.

(a) This account may be established to provide for losses through accident, fire, flood, storms, nuclear accidents and similar type hazards to the utility's own property or property leased from others, which is not covered by insurance. This account would also include provisions for the deductible amounts contained in property loss insurance policies held by the utility as well as retrospective premium assessments stemming from nuclear accidents under various insurance programs covering nuclear generating plants. A schedule of risks covered shall be maintained, giving a description of the property involved, the character of risks covered and the accrual rates used.

(b) Charges to this account shall be made for all occurrences in accordance with the schedule of risks to be covered which are not covered by insurance. Recoveries or reimbursements for losses charged to this account shall be credited to the account.

Because the rule at that time did not specifically address the treatment of debit balances in Account 228.1, it was necessary to establish a regulatory asset to allow the deferral and subsequent amortization of the storm reserve debit balance in Account 228.1.

In 2007, however, Rule 25-6.0143, F.A.C., was expanded regarding Account 228.1. The extensive rule revisions included the establishment of the ICCA methodology for determining the types of costs eligible to be charged to the reserve. Rule 25-6.0143(1)(i), F.A.C., was also established and states that:

⁴ Order No. PSC-05-0937-FOF-EI, issued September 21, 2005, in Docket No. 041291-EI, *In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance*, by Florida Power & Light Company.

If the charges to Account No. 228.1 exceed the account balance, the excess shall be carried as a debit balance in Account No. 228.1 and no request for a deferral of the excess or for the establishment of a regulatory asset is necessary.

The rule was specifically amended so that any debit balance in Account 228.1 was automatically deferred for accounting purposes. Therefore, a request for a deferral or the establishment of a regulatory asset was no longer required or necessary.

Based on the specific provision in Rule 25-6.0143, F.A.C., regarding debit balances in Account 228.1, staff recommends that FPL's request to establish a regulatory asset for the debit balance in Account 228.1 be denied.

Issue 3: Should the Commission approve FPL's proposed Original Tariff Sheet No. 8.042 and Fifty-Sixth Revised Tariff Sheet No. 8.010 with an effective date of March 1, 2017?

Recommendation: Yes, the Commission should approve FPL's proposed Original Tariff Sheet No. 8.042 and Fifty-Sixth Revised Tariff Sheet No. 8.010 as shown in Attachment A with an effective date of March 1, 2017. (Rome, Draper)

Staff Analysis: FPL proposed to commence the 12-month recovery period for its interim storm restoration recovery charge on March 1, 2017 and to include the charge in the non-fuel energy charge on customer bills. In support of its proposed rate calculations, FPL provided Appendices C and D to the petition.

Appendix C illustrated the computation of the proposed interim storm restoration recovery charges for each rate class. FPL represented that it followed the methodology for allocation of storm costs among rate classes consistent with the method set forth in FPL's storm financing order.⁵ Specifically, FPL developed its proposed charges by rate class using the following steps:

- (1) Multiplying the percent allocation of plant share by rate class as shown in the Cost of Service MFR Schedule E-3a approved in Docket No. 120015-EI⁶ by the percentage share of plant assets projected to be damaged,⁷
- (2) Multiplying the allocation factors for each rate class as determined in Step (1) above by the total amount of storm losses associated with Hurricane Matthew (\$318,456,000), and
- (3) Dividing the results obtained in Step (2) above for each rate class by the projected sales for each rate class during the 12-month recovery period to arrive at the charges by rate class.

Staff replicated FPL's calculations and believes the allocation methodology to be reasonable. Most of the storm-related costs are weighted to reflect damage to distribution and transmission assets (71 percent and 20 percent, respectively) with a lesser proportion related to generation and other plant assets.

Application of the allocation methodology for the residential customer rate class results in a proposed interim storm restoration recovery charge of 0.336 cents per kWh, which equates to \$3.36 on a 1,000 kWh residential bill. The proposed interim charges for all rate classes are presented on Original Tariff Sheet No. 8.042 included in Appendix D to FPL's petition. Appendix D also includes Fifty-Sixth Revised Tariff Sheet No. 8.010 which reflects the appropriate addition of Sheet No. 8.042 to FPL's Index of Rate Schedules. Both tariff sheets are included in Attachment A.

⁵ Order No. PSC-06-0464-FOF-EI, issued May 30, 2006, in Docket No. 060038-EI, *In re: Petition for issuance of a storm recovery financing order, by Florida Power & Light Company.*

⁶ Order No. PSC-13-0023-S-EI, issued January 14, 2013, in Docket No. 120015-EI, *In re: Petition for increase in rates by Florida Power & Light Company.*

⁷ FPL represented that the percentages of assets projected to be damaged were derived from the "Storm Loss and Reserve Performance Analysis" study prepared for FPL by ABS Consulting in conjunction with Docket No. 080677-EI, *In re: Petition for increase in rates by Florida Power & Light Company.*

Based on its review of the information provided by FPL, staff recommends that the Commission approve FPL's proposed Original Tariff Sheet No. 8.042 and Fifty-Sixth Revised Tariff Sheet No. 8.010 as shown in Attachment A with an effective date of March 1, 2017.

Issue 4: What is the appropriate security to guarantee the amount collected subject to refund through the 2017 Interim Storm Restoration Recovery Charge?

Recommendation: The appropriate security to guarantee the funds collected subject to refund is a corporate undertaking. (Archer, D. Buys)

Staff Analysis: Staff recommends that all funds collected subject to refund be secured by a corporate undertaking. The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Staff reviewed the financial statements to determine if FPL can support a corporate undertaking for recovery of incremental storm restoration costs related to Hurricane Matthew. FPL's 2015, 2014 and 2013 financial statements were used to determine the financial condition of the Company. FPL's financial performance demonstrates adequate levels of liquidity, ownership equity, profitability, and interest coverage to guarantee the potential refund.

Staff believes FPL has adequate resources to support a corporate undertaking in the amount requested. Based on this analysis, staff recommends that a corporate undertaking of \$318.5 million is acceptable. This brief financial analysis is only appropriate for deciding if the Company can support a corporate undertaking in the amount proposed and should not be considered a finding regarding staff's position on other issues in this proceeding.

Issue 5: Should this docket be closed?

Recommendation: No, this docket should remain open pending final reconciliation of actual recoverable Hurricane Matthew storm costs with the amount collected pursuant to the 2017 Interim Storm Restoration Recovery Charge, and the calculation of a refund or additional charge if warranted. (Brownless)

Staff Analysis: No, this docket should remain open pending final reconciliation of actual recoverable Hurricane Matthew storm costs with the amount collected pursuant to the 2017 Interim Storm Restoration Recovery Charge, and the calculation of a refund or additional charge if warranted.

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.042

2017 Interim Storm Restoration Recovery Charge

The following charges are applied to the Monthly Rate of each rate schedule as indicated and are calculated in accordance with the formula specified by the Florida Public Service Commission. The 2017 Interim Storm Restoration Recovery Charge shall be charged monthly for a period of twelve (12) months from the effective date of this tariff.

<u>Rate Schedule</u>	<u>¢/kWh</u>
ALL KWH -- RS-1, RTR-1	0.336
GS-1, GST-1	0.302
GSD-1, GSDT-1, HLTF-1, SDTR-1	0.225
GSLD-1, GSLDT-1, CS-1, CST-1, HLFT-2, SDTR-2	0.243
GSLD-2, GSLDT-2, CS-2, CST-2, HLFT-3, SDTR-3	0.179
GSLD-3, GSLDT-3, CS-3, CST-3	0.089
OS-2	1.113
MET	0.236
CILC-1(G)	0.335
CILC-1(D)	0.191
CILC-1(T)	0.063
SL-1, SL-1M, PL-1	1.756
OL-1	1.576
SL-2, SL-2M, GSCU-1	0.158
SST-1(T), ISST-1(T)	0.043
SST-1(D1), SST-1(D2) SST-1(D3), ISST-1(D)	0.782

Issued by: S. E. Romig, Director, Rates and Tariffs
 Effective:

FLORIDA POWER & LIGHT COMPANY

Fifty-Sixth Revised Sheet No. 8.010
 Cancels Fifty-Fifth Revised Sheet No. 8.010

INDEX OF RATE SCHEDULES		
<u>RATE SCHEDULE</u>	<u>DESCRIPTION</u>	<u>SHEET NO.</u>
BA	Billing Adjustments	8.030
SC	Storm Charge	8.040
ISC	2017 Interim Storm Restoration Recovery Charge	8.042
GS-1	General Service - Non Demand (0-20 kW)	8.101
GST-1	General Service - Non Demand - Time of Use (0-20 kW)	8.103
GSD-1	General Service Demand (21-499 kW)	8.105
GSDT-1	General Service Demand - Time of Use (21-499 kW)	8.107
GSL	General Service Load Management Program	8.109
NSMR	Non-Standard Meter Rider	8.120
GSCU-1	General Service Constant Usage	8.122
RS-1	Residential Service	8.201
RTR-1	Residential Time of Use Rider	8.203
CU	Common Use Facilities Rider	8.211
RLP	Residential Load Control Program	8.217
GSLD-1	General Service Large Demand (500-1999 kW)	8.310
GSLDT-1	General Service Large Demand - Time of Use (500-1999 kW)	8.320
CS-1	Curtable Service (500-1999 kW)	8.330
CST-1	Curtable Service -Time of Use (500-1999 kW)	8.340
GSLD-2	General Service Large Demand (2000 kW +)	8.412
GSLDT-2	General Service Large Demand - Time of Use (2000 kW +)	8.420
HLFT	High Load Factor – Time of Use	8.425
CS-2	Curtable Service (2000 kW +)	8.432
CST-2	Curtable Service -Time of Use (69 kV or above)	8.440
CST-3	Curtable Service -Time of Use (69 kV or above)	8.542
CS-3	Curtable Service (69 kV or above)	8.545
GSLD-3	General Service Large Demand (69 kV or above)	8.551
GSLDT-3	General Service Large Demand - Time of Use (69 kV or above)	8.552
OS-2	Sports Field Service	8.602
MET	Metropolitan Transit Service	8.610
CILC-1	Commercial/Industrial Load Control Program (Closed Schedule)	8.650
CDR	Commercial/Industrial Demand Reduction Rider	8.680
SL-1	Street Lighting	8.715
SL-1M	Street Lighting Metered Service	8.718
PL-1	Premium Lighting	8.720
OL-1	Outdoor Lighting	8.725
SL-2	Traffic Signal Service	8.730
SL-2M	Traffic Signal Metered Service	8.731
LT-1	LED Lighting Pilot	8.735
RL-1	Recreational Lighting	8.743
SST-1	Standby and Supplemental Service	8.750
ISST-1	Interruptible Standby and Supplemental Service	8.760
EDR	Economic Development Rider	8.800
DSMAR	Demand Side Management Adjustment Rider	8.810
TR	Transformation Rider	8.820
SDTR	Seasonal Demand – Time of Use Rider	8.830
EFEDR	Existing Facility Economic Development Rider	8.900
CISR	Commercial/Industrial Service Rider	8.910
VSP	Voluntary Solar Partnership Pilot Program	8.930

Issued by: S. E. Romig, Director, Rates and Tariffs
 Effective:

Item 4

State of Florida



Public Service Commission

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

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

DATE: January 26, 2017

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 (Hudson, Johnson)
Division of Engineering (Ellis, Mtenga)
Office of the General Counsel (Corbari)

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

AGENDA: 02/07/17 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Handwritten notes and initials: OS, BE, CUB, ALM, SAL, CW, etc.

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.¹

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 Conference (Conference), staff presented its recommendation regarding the Utility's SARC. Several customers attended the 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 Department of Environmental Protection (DEP)/Department of Health (DOH) compliance issue with regard to boil water notices.

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 Conference, the Commission approved a rate increase for Cedar Acres, but found the Utility's quality of service to be unsatisfactory.² As a result, the Commission ordered several measures be taken to improve the Utility's service to its customers.³ 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 a management audit of Cedar Acres on October 26, 2015. The findings of the "Management Audit of Cedar Acres, Inc." (Management Audit) were published

¹ 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.*

² 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.*

³ *Id.*

in March 2016.⁴ 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 the Utility's compliance with 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.⁵

On June 14, 2016, Cedar Acres filed its 6-month Compliance Report.⁶ By Order No. PSC-16-0351-FOF-WU, issued on August 23, 2016, the Commission acknowledged the Utility's management controls and practices were being implemented and corrective actions were being performed to comply with Commission rules and regulations. This Order also found the Utility to be in substantial compliance with Order No. PSC-15-0535-PAA-WU. On December 14, 2016, the Utility filed its 12-month Compliance Report. This recommendation addresses the Utility's 12-month Compliance Report. This Commission has jurisdiction pursuant to Chapter 367, Florida Statutes, (F.S.).

⁴Document 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>.

⁵*Id.*, p. 1-2

⁶Document 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: On December 14, 2016, Cedar Acres timely submitted its 12-month Compliance Report along with the required billing analysis. In the Compliance Report, Cedar Acres included a variety of corrective measures that are continuing to be taken, as directed by this Commission and suggested by staff in its Managerial Audit. Presented below are the broad categories of concern cited by the Commission in Order No. PSC-15-0535-PAA-WU, along with an update from the Utility as to how these concerns have been addressed.

Quality of Service Concerns

Cedar Acres has continued to implement the corrective measures that were recommended by staff in its Management Audit. The Utility implemented a system to record customer complaints, but has received no complaints since its six-month compliance report. In addition, the Commission's Consumer Activity Tracking System (CATS) has registered zero complaints in the last six months. DEP has not recorded any violations or complaints for the Utility in the last six months. Staff believes the Utility has taken adequate measures to address customer concerns and complaints and to comply with DEP requirements and Commission rules.

Billing Issues

During the October 13, 2015, Commission Conference, customers expressed concern with the Utility's billing practices. Customers reported faulty meters, unusual bills, and a mailing issue dispute between an owner of the property receiving water and the tenant of the property. Staff addressed these issues in its October 1, 2015 recommendation, recognizing that 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 over the course of a four year period.

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 12-month Compliance Report, the Utility indicated that meters are audited with each reading and prioritized for meter replacement. According to the Utility's 12-month Compliance Report and staff's discussions with the Utility,

50 meters have been replaced. The Utility has ordered 12 additional meters that are scheduled to be installed when they arrive based on the installer's schedule. 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. Due to unanticipated expenses, the Utility hasn't always been able to make regular escrow deposits. However, the Utility has been replacing an acceptable number of meters on a consistent basis. While the Utility is not in full compliance with the Commission's Order regarding the escrow deposits, the Utility is diligently working with staff to keep the Commission updated with actual replacement of meters. Thus, Staff believes the Utility is following the spirit of the Commission's Order by going forward with the actual replacement of meters even when funds have not been timely deposited into the established escrow account.

Based on the reasons outlined above, staff believes that Cedar Acres is making a substantial effort to comply with Order No. PSC-15-0535-PAA-WU by implementing corrective measures and improvements regarding the Utility's service to its customers. Staff also believes that Cedar Acres continues to incorporate 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 Cedar Acres is 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. Staff will continue to monitor the Utility's progress and the status of the escrow account, along with the meter replacement program.

Issue 2: Should the Utility be required to file an additional billing analysis?

Recommendation: Yes. Cedar Acres should be required to file an additional billing analysis, which reflects the period of November 1, 2016 to June 30, 2017, by July 31, 2017. (Hudson)

Staff Analysis: In accordance with Order No. PSC-15-0535-PAA-WU, Cedar Acres filed a billing analysis for the 12-month compliance review period. The billing analysis data represented the 10-month period from January 2016 to October 2016. Based on the billing analysis data, staff annualized revenues and water demand for the 10-month period and compared those amounts with the revenue requirement approved in Order No. PSC-15-0535-PAA-WU.

**Table 2-1
Revenue and Demand**

	Revenue	Demand
Commission Approved	\$115,111	15,716,600 gallons*
Billing Analysis - Actual	\$60,635	5,303,461 gallons
Billing Analysis - Annualized	\$72,763	6,364,134 gallons
*Approximate post-repression gallons		

Source: Order No. PSC-15-0535-PAA-WU, Utility data, and staff's calculations

In its 12-month Compliance Report, the Utility indicated 50 meters have been replaced, with 12 more on order. The Utility further indicated that the last 24 meters were replaced subsequent to its October 2016 billing. Staff determined that the monthly operating reports for the corresponding period of January 2016 to October 2016, reflect approximately 18 million gallons pumped versus the 5.3 million gallons sold. Although Cedar Acres is replacing all of the meters, there were 44 meters (or 16 percent) identified as partially readable or unreadable in the Commission's Management Audit. Therefore, staff has concern with the disparity between the gallons pumped and gallons sold. Since the billing analysis does not reflect any actual readings from the most recent meter replacements and there is a large disparity between water gallons pumped and sold, staff believes an additional billing analysis should be provided by the Utility in order to more fully evaluate the customer demand. In addition, staff encourages the Utility to reach out to the Florida Rural Water Association to help determine the discrepancies between gallons pumped and gallons sold.

Based on the above, staff recommends that the Utility be required to file an additional billing analysis, which reflects the period of November 1, 2016 to June 30, 2017, by July 31, 2017.

Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open to allow staff to continue to monitor Cedar Acres' meter replacement program, and administration of escrow account funds. Additionally, this docket should remain open to allow staff to analyze the Utility's billing analysis due on or before July 31, 2017. (Corbari)

Staff Analysis: This docket should remain open to allow staff to continue to monitor Cedar Acres' meter replacement program, and administration of escrow account funds. Additionally, this docket should remain open to allow staff to analyze the Utility's billing analysis due on or before July 31, 2017. Therefore, this docket should remain open.

Item 5

State of Florida



Public Service Commission

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

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

DATE: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Vogel) *W*
Division of Economics (Bruce) *STP*
Division of Engineering (Matthews) *POE*
Office of the General Counsel (Corbari, Lherisson) *ALM*
EX KUK

RE: Docket No. 150257-WS – Application for staff-assisted rate case in Marion County, by East Marion Utilities, LLC.

AGENDA: 02/07/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: 03/03/17 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS: None

Table of Contents

<i>Issue</i>	<i>Description</i>	<i>Page</i>
	Case Background.....	3
1	Quality of Service (Matthews)	4
2	Used and Useful (Matthews)	6
3	Rate Base (Vogel).....	9
4	Rate of Return (Vogel)	12
5	Test Year Revenue (Bruce)	13
6	Operating Expense (Vogel)	14
7	Operating Ratio Method (Vogel).....	21
8	Revenue Requirement (Vogel)	24
9	Rate Structure and Rates (Bruce)	26
10	Convenience Charge (Bruce)	28
11	Four-Year Rate Reduction (Vogel, Bruce).....	30
12	Temporary Rates (Vogel)	31
13	Proof of Adjustments (Vogel)	33
14	Close Docket (Corbari).....	34
	Schedule No. 1-A Water Rate Base	35
	Schedule No. 1-B Wastewater Rate Base.....	36
	Schedule No. 1-C Adjustments to Rate Base	37
	Schedule No. 2 Capital Structure	38
	Schedule No. 3-A Water Operating Income.....	39
	Schedule No. 3-B Wastewater Operating Income.....	40
	Schedule No. 3-C Adjustments to NOI	41
	Schedule No. 3-D Water O&M Expense	44
	Schedule No. 3-E Wastewater O&M Expense.....	45
	Schedule No. 4-A Wastewater Rates.....	46
	Schedule No. 4-B Wastewater Rates.....	47

Case Background

East Marion Utilities, LLC (East Marion or Utility) is a Class C utility serving approximately 103 water customers and 92 wastewater customers in Marion County. According to East Marion's 2014 annual report, the Utility had water and wastewater operating revenues of \$23,750 and \$35,522, respectively, and operating expenses of \$31,504 and \$37,071, respectively, resulting in net operating losses of \$7,754 and \$1,550. The last rate case for the Utility was in 2002.¹ East Marion was transferred to new ownership by Order No. PSC-15-0576-PAA-WS.²

East Marion was originally certificated in 1987.³ In 1990 and 1997, there were transfers of majority organizational control.⁴ Currently, the Utility is owned by Mr. Michael Smallridge. Mr. Smallridge owns multiple small, Class C utilities in Florida. Florida Utility Services 1, LLC (FUS1) manages all of Mr. Smallridge's utilities.

In the instant docket, East Marion filed its application for a Staff Assisted Rate Case (SARC) on December 3, 2015. February 1, 2016 was established as the official filing date in this case.

The Commission has jurisdiction in this case pursuant to Sections 367.011, 367.0812, 367.0814, 367.0816, 367.091, 367.101, and 367.121, F.S.

¹Order No. PSC-02-1168-PAA-WS, issued August 26, 2002, in Docket No. 010869-WS, *In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.*

²Order No. PSC-15-0576-PAA-WS, issued December 21, 2015, in Docket No. 150091-WS, *In re: Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utilities, LLC, in Marion County.*

³Order No. 17837, issued July 7, 1987, in Docket No. 870389-WU, *In re: Application of East Marion Water Distribution, Inc. for a certificate to operate a water utility in Marion County, Florida.*

⁴Order No. 24553, issued May 20, 1991, in Docket No. 900603-WS, *In re: Application for transfer of majority organizational control of East Marion Water Distribution, Inc. and East Marion Sanitary Systems, Inc. in Marion County from Penelope A. Wagner, trustee for the Estate of Eric E. Wagner, to Forest Lake Village – Del American Ltd., and Order No. PSC-98-0928-FOF-WS, issued July 7, 1998, in Docket No. 971269-WS, In re: Application for transfer of majority organizational control of East Marion Sanitary Systems, Inc. and East Marion Water Distribution, Inc. in Marion County from Del-American/First Federal of Osceola to Herbert Hein, and change in name on Certificate No. 490-W from East Marion Water Distribution, Inc. to East Marion Sanitary Systems, Inc.*

Discussion of Issues

Issue 1: Is the quality of service provided by East Marion Utilities, LLC satisfactory?

Recommendation: Yes, the overall quality of service provided by East Marion should be considered satisfactory. (Matthews)

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 evaluating 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.

Quality of Utility's Product

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

Staff reviewed the most recent chemical analyses for East Marion's system, conducted on November 2, 2015, and all results complied with DEP primary and secondary standards. Staff requested complaints against the system filed with the DEP for the test year and four years prior. The DEP reported that it did not receive any complaints regarding the quality of East Marion's product during the period requested. No complaints regarding the quality of East Marion's product have been filed with the Commission.

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

Operating Conditions of the Utility's Plant and Facilities

East Marion's water treatment system has one well rated at 250 gallons per minute (gpm). The water treatment processing sequence is to pump raw water from the aquifer, treat the water by injecting chlorine, pump it into a 6,000 gallon hydropneumatic pressurizing tank, and then through the distribution system which is composed of PVC pipe. Staff's evaluation of East Marion's facilities included a review of the Utility's compliance with DEP standards of operation. For the water system, staff reviewed the Utility's most recent DEP sanitary survey reports. The DEP found no deficiencies and determined the system to be in compliance with its rules and regulations.

East Marion's wastewater treatment plant (WWTP), which has a rating of 50,000 gallons per day (gpd), uses extended aeration to treat wastewater. Effluent is disposed of through reuse to three

rapid infiltration basins. DEP conducted an inspection on July 21, 2016, and reported deficiencies including discharge monitoring reports with missing, incomplete, or inconsistent data, a clarifier and contact chamber surfaces covered with sludge, and an infiltration basin containing excessive solids and vegetation. The operator subsequently resolved each of these deficiencies by August 25, 2016. DEP's compliance inspection report dated August 31, 2016, states that the operator is now in compliance.

Staff has not identified any issues or concerns with the operating condition of East Marion's water and wastewater treatment plants or its distribution and collection systems. Therefore, the operating condition of East Marion's plant and facilities should be considered satisfactory.

The Utility's Attempt to Address Customer Satisfaction

The final component of the overall quality of service that must be assessed is customer satisfaction. As part of staff's evaluation of customer satisfaction, staff held a customer meeting on October 4, 2016, to receive customer comments concerning East Marion's quality of service. Four customers attended the meeting and all spoke. Topics included the odor and taste of the water, brown rings caused by the water, water pressure, and delays in a meter replacement.

The Utility was acquired by a new owner on January 9, 2015, and the transfer was approved by Order PSC-15-0576-PAA-WS.⁵ The Utility stated that, during periods of line flushing, the pressure of the water might be low, as the lines are flushed weekly and the tank is flushed monthly in order to maintain acceptable levels of color and odor. The new owner is working with the Florida Rural Water Association to determine the best way to address customer concerns relating to odor and taste through the addition of an aeration tank and addressing insufficient turnover in the existing tank. However, recovery for the aeration tank addition and replacement of the existing tank are not being addressed in the instant case. Lastly, a customer stated that her meter had not been replaced as promised. The customer's meter was replaced on October 25, 2016.

As stated above, staff requested complaints filed against the system with DEP for the test year and the prior four years. DEP responded on August 4, 2016, stating that no complaints have been received in the five-year period. Finally, staff reviewed the Commission's complaint records for the test year and the prior four years. No complaints were filed against the Utility during this period. Therefore, staff recommends the Utility's attempt to address customer satisfaction should be considered satisfactory.

Conclusion

Based on staff's analysis and review described above, the overall quality of service provided by East Marion should be considered satisfactory.

⁵Order No. PSC-15-0576-PAA-WS, issued December 21, 2015, in Docket No. 150091-WS, *In re: Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utilities, LLC, in Marion County.*

Issue 2: What are the used and useful (U&U) percentages of East Marion Utilities, LLC's water treatment plant (WTP), wastewater treatment plant (WWTP) and distribution and collection systems?

Recommendation: East Marion's WTP should be considered 100 percent U&U. The water distribution system should be considered 58.7 percent U&U. The WWTP should be considered 24.0 percent U&U. The wastewater collection system should be considered 50.8 percent U&U. There is no excessive unaccounted for water (EUW) and no excessive infiltration and inflow (I&I). (Matthews)

Staff Analysis: East Marion's water system has one 6-inch diameter well rated at 250 gpm. Water from the well is treated with chlorine and pumped into a 6,000 gallon hydropneumatic tank for pressurization. The Utility has no fire hydrants in its system. The distribution system consists of the following lengths and sizes of PVC pipe:

- 200 linear feet – 6 inch
- 8,450 linear feet – 4 inch
- 1,675 linear feet – 2 inch
- 375 linear feet – 1.5 inch

East Marion's WWTP is permitted by the DEP for 50,000 gpd on an annual average daily flow basis. According to the Utility, the wastewater collection system includes 35 manholes and 2 lift stations. In addition, the wastewater collection system consists of the following sized components:

- 9,880 linear feet – 6 inch gravity main
- 950 linear feet – 4 inch gravity main
- 950 linear feet – 3 inch gravity main

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 relevant factors as to the reason for the 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 filed by East Marion with DEP indicate an unaccounted for water value of less than 10 percent. Therefore, there appears to be no EUW to be considered, and staff recommends that no adjustments be made to operating expenses for chemicals and purchased water due to EUW.

Infiltration and Inflow

Rule 25-30.432, F.A.C., provides that in determining the amount of U&U plant, the Commission will consider I&I. Typically, infiltration results from groundwater entering a wastewater collection system through broken or defective pipes and joints; whereas inflow results from water entering a wastewater collection system through manholes or lift stations. The allowance for infiltration is 500 gpd per inch diameter pipe per mile, and an additional 10 percent of water sold is allowed for inflow. In addition, adjustments to operating expenses, such as chemical and electrical costs, are considered necessary if excessive.

All wastewater collection systems experience I&I. The convention noted above provides guidance for determining whether the I&I experienced at a WWTP is excessive. After the allowable I&I is determined, staff calculates the estimated amount of wastewater returned to the WWTP from customers. The estimated return is determined by summing 80 percent of the water sold to residential customer with 90 percent of the water sold to non-residential customers. Adding the estimated return to the allowable I&I yields the maximum amount of wastewater that should be treated by a WWTP without incurring adjustments to operating expenses. If this amount exceeds the actual amount treated, no adjustment is made. If it is less than the gallons treated, then the difference is the excessive amount of I&I.

Staff performed the calculations to determine the allowable I&I and estimated amount of wastewater to be treated and compared it to the actual total amount of wastewater treated by the utility during the test year. The total wastewater treated does not exceed the total wastewater allowed, therefore there is no excessive I&I.

Water Treatment Plant Used and Useful

Pursuant to Rule 25-30.4325(4), F.A.C., systems served by a single well are considered 100 percent U&U. East Marion has one well providing its water; therefore the WTP is 100 percent U&U.

Wastewater Treatment Plant Used and Useful

Pursuant to Rule 25-30.432, F.A.C., the U&U analysis of the Utility's WWTP is based on the customer demand compared with the permitted plant capacity, with consideration also given for growth over a 5-year statutory period and excessive I&I. In its most recent rate case, the Utility's WWTP was found to be 7.5 percent U&U.⁶ The formula for calculating U&U for the wastewater treatment plant is (average daily flow + growth – excessive I&I) / permitted plant capacity. The average daily flow for East Marion is 12,000 gpd. The growth is calculated to be 0 gpd. There is no excessive I&I. The permitted capacity of the plant is 50,000 gpd. Based upon staff's analysis in the instant case, the WWTP is 24.0 percent U&U.

Water Distribution and Wastewater Collection Systems

The analysis of U&U for the water distribution system and wastewater collection system is based on the number of test year connections compared to the capacity of the system, with consideration given for growth over a 5-year statutory period. In its most recent rate case, the

⁶Order No. PSC-02-1168-PAA-WS, issued August 26, 2002, in Docket No. 010869-WS, *In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.*

Utility's water distribution and wastewater collection systems were both found to be 38.7 percent U&U.⁷

The formula for calculating U&U for the water distribution system is (number of test year connections + growth) / capacity of the system. East Marion had an average number of 101.5 connections during the test year. Growth is obtained by the product of customer growth for the last five years using regression analysis and the statutory growth period. This calculation yields a growth of 0.7 gallons per minute. The capacity of the system is 179 equivalent residential connections (ERCs).

The formula for calculating U&U for the wastewater collection system is given by (test year connections + growth) / capacity of the system. There were an average of 92 ERCs in the test year. Growth is calculated to be 0 ERCs per year. The capacity of the system is 181 ERCs.

Based on staff's calculations, the water distribution system should be 58.7 percent U&U and the wastewater collection system should be 50.8 percent U&U.

Conclusion

East Marion's WTP should be considered 100 percent U&U. The water distribution system should be considered 58.7 percent U&U. The WWTP should be considered 24.0 percent U&U. The wastewater collection system should be considered 50.8 percent U&U. There is no EUW and no excessive I&I.

⁷Order No. PSC-02-1168-PAA-WS

Issue 3: What is the appropriate average test year water rate base and wastewater rate base for East Marion Utilities, LLC?

Recommendation: The appropriate average test year water rate base for East Marion is \$16,177 and the average test year wastewater rate base is \$12,257. (Vogel)

Staff Analysis: East Marion's net book value was last established in its 2015 transfer docket by Order No. PSC-15-0576-PAA-WS.⁸ East Marion's owner, Michael Smallridge, owns and manages several Class C utilities in Florida under the company FUS1. As of January 1, 2015, Mr. Smallridge has been recording common costs on FUS1 books. These costs, which include salaries, transportation, and office supplies, have been allocated among all of the utilities they serve. All allocations are based on customer count. The test year ended December 31, 2015, was used for the instant case. A summary of each water and wastewater rate base component, and recommended adjustments are discussed below.

Utility Plant in Service (UPIS)

The Utility recorded UPIS of \$142,734 for water and \$482,102 for wastewater. East Marion has requested a new turbine water meter as an addition to the current plant. Staff included this addition to water plant along with retirements. Staff increased water plant in service by \$894 for the water meter and the retirements associated with the addition. Staff also capitalized a major pump repair at the wastewater plant originally expensed to Account 636 and 736. The expense was allocated to both water and wastewater. Therefore, staff increased wastewater plant by \$1,908 and decreased Account 636 and 736 by \$954 each. Staff also reduced plant by \$447 for water and \$954 for wastewater to reflect an averaging adjustment. Staff's net adjustments increase UPIS by \$447 for water and \$954 for wastewater. Therefore, staff recommends that the appropriate UPIS balances are \$143,181 for water and \$483,056 for wastewater.

UPIS - Allocated

The Utility did not record a balance in UPIS – Allocated for water or wastewater. Due to the Utility's relationship with FUS1, staff has included allocated common plant from FUS1. Staff's audit included total FUS1 balances for Office Furniture & Equipment, Transportation Equipment, and Tools, Shop, and Garage Equipment of \$21,770. After East Marion's 5 percent allocation (based on ERCs), staff increased UPIS – Allocated by \$1,094, \$547 for water and \$547 for wastewater. Staff also included an averaging adjustment of \$24 for both water and wastewater. Therefore, staff recommends that the appropriate UPIS - Allocated balances are \$523 for water and \$523 for wastewater.

Land & Land Rights

The Utility did not record a test year land balance, as the Utility leases the land. No adjustments are necessary; therefore, staff recommends that Land & Land Rights balances remain \$0.

⁸Order No. PSC-15-0576-PAA-WS, issued December 21, 2015, in Docket No. 150091-WS, *In re: Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utilities, LLC, in Marion County.*

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

The Utility did not record a test year non-U&U plant balance for water or wastewater. As discussed in Issue 2, the WTP should be considered 100 percent U&U and the WWTP should be considered 24 percent U&U. In addition, East Marion's water distribution system should be considered 58.7 percent U&U and wastewater collection system should be considered 50.8 percent U&U.

Application of the U&U percentage to the average plant balances and associated average accumulated depreciation balances results in increases of \$14,489 and \$51,328 for water and wastewater non-U&U components, respectively. Therefore, staff's recommended non-U&U plant balances are \$14,489 for water and \$51,328 for wastewater.

Contributions In Aid of Construction (CIAC)

The Utility recorded CIAC balances of \$39,700 for water and \$77,600 for wastewater. Commission audit staff found no additions in the test year, and determined that no adjustments are necessary. Staff's recommends CIAC balances of \$39,700 and \$77,600 for water and wastewater, respectively.

Accumulated Depreciation

East Marion recorded a test year accumulated depreciation balance of \$99,112 for water and \$390,285 for wastewater. Staff recalculated accumulated depreciation using the prescribed rates set forth in Rule 25-30.140, F.A.C., and increased water by \$26 and decreased wastewater by \$11,787. Staff also decreased this account by \$2,656 for the water plant addition and associated retirement. Staff decreased this account by \$3,261 for water and \$4,094 for wastewater to reflect the simple average. Staff's total adjustments to this account are a decrease of \$5,891 for water and \$15,881 for wastewater. Staff's adjustments to these accounts result in accumulated depreciation balances of \$93,221 for water and \$374,404 for wastewater.

Accumulated Depreciation – Allocated

The Utility did not record a test year water or wastewater balance for Accumulated Depreciation – Allocated. Staff calculated accumulated depreciation for plant associated with FUS1's common plant that has been allocated to East Marion. Staff has included a new balance of \$20 for both water and wastewater. Staff also included an averaging adjustment of \$7 for each account. Therefore, staff's adjustments to these accounts result in Accumulated Depreciation – Allocated balances of \$13 for water and \$13 for wastewater.

Accumulated Amortization of CIAC

The Utility recorded test year Accumulated Amortization of CIAC balances of \$18,101 for water and \$29,279 for wastewater. Amortization of CIAC was recalculated by staff using composite depreciation rates. Staff decreased this account by \$286 for water and \$421 for wastewater. Also, staff decreased this account by \$639 for water and \$659 for wastewater to reflect the simple average. Staff's adjustments result in a decrease of \$925 for water and \$1,080 for wastewater. Staff's recommended Accumulated Amortization of CIAC balances are \$17,176 for water and \$28,199 for wastewater.

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 operation and maintenance (O&M) expense formula approach for calculating the working capital allowance. Applying this formula, staff recommends a working capital allowance of \$2,721 for water (based on O&M expense of \$21,766/8), and \$3,824 for wastewater (based on O&M expense of \$30,590/8).

Rate Base Summary

Based on the foregoing, staff recommends that the appropriate average test year rate base for water is \$16,177 and the average test year rate base for wastewater is \$12,257. Water and wastewater rate bases are shown on Schedule Nos. 1-A and 1-B, respectively. The related adjustments are shown on Schedule No. 1-C.

Issue 4: What is the appropriate return on equity and overall rate of return for East Marion Utilities, LLC?

Recommendation: The appropriate return on equity (ROE) is 11.16 percent with a range of 10.16 percent to 12.16 percent. The appropriate overall rate of return is 5.49 percent. (Vogel)

Staff Analysis: According to staff's audit, East Marion's test year capital structure reflected common equity of negative \$172,102, long term debt of \$90,325, and customer deposits of \$3,625.

Staff increased common equity by \$10,000 to reflect the down payment made by the owner at the time of purchase. The retained earnings for the Utility are negative \$172,102. Since including negative equity would penalize the Utility's capital structure by understating the overall rate of return, staff adjusted the total negative equity to zero. Adjusting negative equity to zero has been Commission practice in similar cases.⁹ The Utility's capital structure was reconciled with staff's recommended rate base. The appropriate ROE for the Utility is 11.16 percent based upon the Commission-approved leverage formula currently in effect.¹⁰ Staff recommends an ROE of 11.16 percent, with a range of 10.16 percent to 12.16 percent, and an overall rate of return of 5.49 percent. The ROE and overall rate of return are shown on Schedule No. 2.

⁹Order No. PSC-08-0652-PAA-WS, issued October 6, 2008, in Docket No. 070722-WS, *In re: Application for staff-assisted rate case in Palm Beach County by W.P. Utilities, Inc.*

¹⁰Order 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 5: What are the appropriate test year revenues for East Marion Utilities, LLC's water and wastewater systems?

Recommendation: The appropriate test year revenues for East Marion's water system and wastewater systems are \$23,903 and \$35,882, respectively. (Bruce)

Staff Analysis: East Marion recorded total revenues of \$23,718 for water and \$34,144 for wastewater. The water revenues included \$23,213 of service revenues and \$505 of miscellaneous revenues. The wastewater revenues consisted of service revenues only. During the test year, the Utility had a rate increase as a result of a price index. Therefore, staff annualized test year revenues by applying the rates in effect as of October 1, 2015, to the water and wastewater billing determinants. Staff determined that service revenues should be \$23,593 for water and \$35,572 for wastewater, which results in increases of \$380 and \$1,428 for water and wastewater, respectively.

Staff also made several adjustments to miscellaneous revenues for water and wastewater. Staff increased miscellaneous revenues by \$75 for nonsufficient funds charges and \$90 for two initial connections, which the Utility did not appropriately record during the test year. Staff decreased miscellaneous revenues by \$30 to reflect credits issued to six customers for duplicate late payment charges. In addition, staff decreased miscellaneous revenues by \$20 to remove convenience charges that were collected. The Utility does not have an authorized tariff to charge customers for using their credit or debit card to make a payment. However, as discussed in Issue 10, staff is recommending approval of a convenience charge and refunds for the collection of the unauthorized convenience charge. For the reasons outlined above, the miscellaneous revenues should be \$620 (\$505+\$75+\$90-\$30-\$20). As a result, staff increased miscellaneous revenues by \$115 (\$620-\$505). The Utility allocated all of the miscellaneous revenues to the water system. Staff recommends that the miscellaneous revenues be equally distributed between the water and wastewater systems.

Based on the above, the appropriate test year revenues for East Marion's water and wastewater system, including miscellaneous service revenues are \$23,903 (\$23,593+\$310) for water and \$35,882 (\$35,572+\$310) for wastewater.

Issue 6: What is the appropriate amount of operating expense for East Marion Utilities, LLC?

Recommendation: The appropriate amount of operating expense for East Marion is \$28,447 for water and \$39,033 for wastewater. (Vogel)

Staff Analysis: East Marion recorded operating expense of \$34,401 for water and \$48,884 for wastewater for the test year ended December 31, 2015. The test year O&M expenses have been reviewed, including invoices, canceled checks, and other supporting documentation. Staff also included an allocated portion of FUS1's operating expenses for the test year ending December 31, 2015. Staff made several adjustments to the Utility's operating expenses as summarized below.

Salaries and Wages – Employees (601/701)

East Marion recorded salaries and wages – employees expense of \$4,246 for water and \$4,246 for wastewater. Staff decreased this expense by \$60 for both water and wastewater to remove a payroll markup. Staff increased this expense by \$225 for both water and wastewater to reclassify salary expense from Account 636 and 736. Staff also decreased this expense by \$315 for both water and wastewater to reflect the appropriate payroll tax for the test year. Staff reallocated these accounts based on an audit response to a related utility in Docket No. 160143-WU.¹¹ This audit response detailed FUS1's new customer counts based on ERCs including an accurate listing of utilities managed by FUS1. Based on the updated allocations, staff increased this account by \$450 for water and \$450 for wastewater.

Staff received a compensation survey completed by OCBOA Consulting, LLC (OCBOA) regarding the salaries of FUS1 employees. The Utility requested an increase in salaries based on the survey and also requested a new part time position to handle customer billing. Staff analyzed the results of the compensation survey and properly allocated the salary adjustments for East Marion. Staff's analysis of salaries is detailed below.

Although the compensation study provided by OCBOA was thorough in its analysis of FUS1 positions and responsibilities for each employee, staff believes the compensations study's need determination calculation for a part time customer billing position is inaccurate. The total number of FUS1 customers has in fact decreased since 2015 from 2,267 customers to 1,961 customers. However, staff spoke with customers of FUS1 and believes that a part-time customer billing position would increase the level of customer service for FUS1 systems. The Utility requested \$8.10 per hour for the part-time position. However, staff believes the responsibilities of the position, including customer billing and cut-off noticing, warrant more than minimum wage. Similar positions, for example, Part-Time Senior Clerk employed by the state of Florida, has a base salary of \$10.35 per hour. Therefore, staff believes a salary of \$10 per hour is more appropriate. Staff agrees that the reclassification of two positions to include Office Manager and Operations Supervisor is reasonable based on the roles those employees now have in the company. In addition, staff determined that a Maintenance Technician, an employee of FUS1 should not be allocated to East Marion, as he works solely on other systems. Therefore, with the adjustments to positions and allocations and the increases in salaries based on the compensation

¹¹Document No. 08857-16, filed November 17, 2016 in Docket No. 160143-WU.

study, a decrease in total employee salaries for East Marion is appropriate. The compensation study was used by the Utility as a basis for a request to increase salaries for FUS1. Table 6-1 shows the requested amounts for each position, as well as staff’s recommended salaries for East Marion.

**Table 6-1
 Adjustments made to Salaries and Wages – Employees**

Title	Requested	Current	Current Allocated	Recommended	Recommended Allocated
Chief Financial Off.	\$55,500	\$53,040	\$2,664	\$54,366	\$2,731
Oper. Supervisor	39,000	33,488	1,682	39,000	1,959
Maintenance Tech	37,900	33,488	1,682	0	0
Office Manager	39,500	37,440	1,881	39,500	1,984
Cust. Serv. Rep.	34,000	30,160	1,515	34,000	1,708
Part-time Billing	8,424	0	0	10,400	522
Total	\$214,324	\$187,616	\$9,424	\$177,266	\$8,904

Source: Compensation Survey from OCBOA

Staff believes the salary levels are appropriate and necessary for East Marion. Therefore, staff recommends a salaries and wages – employees expense of \$8,904 for East Marion, to be allocated \$4,452 to water expense and \$4,452 to wastewater expense.

Salaries and Wages – Officers (603/703)

East Marion recorded salaries and wages – officers expense of \$2,154 for water and \$2,154 for wastewater. Staff decreased this expense by \$654 for both water and wastewater to remove the salary expense of the former owner.

The compensation survey completed by OCBOA Consulting, LLC (OCBOA) also included a salary recommendation for FUS1’s president. The Utility requested an increase in salary based on the survey. Staff has analyzed the results of the compensation survey and properly allocated those expenses for East Marion.

The current salary for the president is \$60,000, as approved in a SARC for a sister utility in Docket No. 120269-WU.¹² The compensation study states, “[t]he maximum average salary range was used for evaluating officers and executive level employees that have obtained and perform the advanced skills required for the respective position.” The owner requested a salary of \$93,800, which is the maximum salary in the compensation study. In the instant case, staff considered the last approved salary, along with information regarding the president’s duties, and his level of advanced skills obtained since his salary was last approved. In Docket No. 120269-WU, the requested salary for the president was \$60,000, which at the time was below the average salary range. Since that time, the president has taken steps to increase his expertise in the industry. Staff believes a more appropriate salary level falls between the minimum and mid average salary range which, in the 2015 AWWA Compensation Survey, equates to a salary level

¹²Issued July 12, 2013, in Docket No. 120269-WU, *In re: Application for staff-assisted rate case in Polk County by Pinecrest Utilities, LLC.*

of \$70,023. This salary level provides the president with an increase that staff believes is appropriate. East Marion's allocated portion of president salary results in an increase of \$259 for water and \$259 for wastewater.

Staff's net adjustments result in a decrease of \$395 for water and \$395 for wastewater. Therefore, staff recommends a salaries and wages – officers expense of \$1,759 for water and \$1,759 for wastewater.

Employee Pensions and Benefits (604/704)

East Marion recorded employee pensions and benefits expense of \$0 for water and \$0 for wastewater. Staff increased this expense by \$512 for both water and wastewater to include the appropriate amount of benefit expense for the test year. Staff also increased this expense by \$54 for water and \$54 for wastewater to reflect the updated allocations for East Marion from FUS1. Staff's adjustments result in an increase of \$566 for water and \$566 for wastewater. Therefore, staff is recommending employee pensions and benefits expense of \$566 for water and \$566 for wastewater.

Purchased Power (615/715)

The Utility recorded purchased power expense of \$1,267 for water and \$5,158 for wastewater. Staff has increased these expense accounts by \$205 for water and \$56 for wastewater to reflect the appropriate Utility expense for the test year. Staff also decreased these expenses by \$406 for water and \$376 for wastewater, to reflect proper allocation of East Marion's systems from FUS1. Staff also removed late fees of \$28 for wastewater. Staff's net adjustments result in a decrease of \$201 for water and \$348 for wastewater. Therefore, staff recommends purchased power expense of \$1,066 and \$4,810 for water and wastewater, respectively.

Chemicals (618/718)

East Marion recorded chemicals expense of \$1,189 for water and \$1,189 for wastewater. Staff decreased water expense by \$347 and increased wastewater expense by \$347 to properly allocate the test year expenses to the correct plant. Staff's total adjustments result in a decrease of \$347 for water and an increase of \$347 for wastewater. Therefore, staff recommends chemicals expense of \$842 for water and \$1,536 for wastewater.

Materials & Supplies (620/720)

The Utility recorded materials & supplies expense of \$826 for water and \$808 for wastewater. Staff decreased these accounts by \$68 for both water and wastewater, to remove purchases outside of the test year. Staff also decreased these accounts by \$132 for water and \$91 for wastewater to remove items not related to the Utility. To reflect the new allocations to East Marion from FUS1, staff increased water expense by \$62 and wastewater expense by \$64. Staff also decreased these account by \$43 for both water and wastewater to reclassify these amounts to Account 650 and 750, transportation expense. Staff's total adjustments result in decreases of \$181 for water and \$138 for wastewater. Therefore, staff recommends materials & supplies expense of \$645 for water and \$670 for wastewater.

Contractual Services - Professional (631/731)

East Marion recorded contractual services – professional expense of \$266 for water and \$66 for wastewater. Staff decreased water expense by \$100 and increased wastewater expense by \$100 to properly allocate these expenses between systems. Staff also removed \$66 from both water and wastewater relating to expenses from a lawsuit. Staff’s total adjustments result in a decrease of \$166 for water and an increase of \$34 for wastewater. Therefore, staff recommends contractual services – professional expense of \$100 for water and \$100 for wastewater.

Contractual Services - Testing (635/735)

East Marion recorded contractual services – testing expense of \$928 for water and \$928 for wastewater. Staff increased water expense by \$928 and decreased wastewater expense by \$928 to properly allocate the expense to the water plant. Staff’s total adjustments result in an increase of \$928 for water and a decrease of \$928 for wastewater. Therefore, staff recommends contractual services – testing expense of \$1,856 for water and \$0 for wastewater.

Contractual Services - Other (636/736)

East Marion recorded contractual services – other expense of \$10,755 for water and \$8,801 for wastewater. Staff recommends the following adjustments to contractual services – other.

**Table 6-2
 Adjustments made to Contractual Services - Other**

	Adjustment Description	Water	Wastewater
1.	To remove expenses outside the test year.	(\$98)	(\$98)
2.	To properly allocate expenses between systems.	(1,779)	1,757
3.	To remove an additional mowing bill.	(225)	0
4.	To include an unrecorded bill.	230	345
5.	To remove a major pump repair and capitalize the project.	(954)	(954)
6.	To amortize non-recurring tree trimming expense.	(420)	(420)
7.	To amortize non-recurring tank cleaning.	(1,440)	0
8.	To reclassify salary expense to Accounts 601 and 701.	(225)	(225)
9.	To remove items not related to the Utility.	(160)	(141)
10.	To reflect the new allocations for East Marion from FUS1.	<u>2</u>	<u>2</u>
	Total	<u>(\$5,069)</u>	<u>\$266</u>

Source: Utility Records and Audit Control No. 15-362-4-1

Based on the adjustments shown above, staff’s net adjustment is a decrease of \$5,069 to water and an increase of \$266 to wastewater. Staff recommends contractual services – other expense of \$5,686 for water and \$9,067 for wastewater.

Rent Expense (640/740)

East Marion recorded rent expense of \$5,857 for water and \$2,395 for wastewater. Rent expense is based on the requested land lease for the Utility. Staff believes that the requested rent expense is not reasonable for this Utility. In this Utility’s previous rate case, (Order No. PSC-02-1168-

PAA-WS¹³) the Commission found that, “an annual lease amount of \$7,200 is not reasonable.” Therefore, staff decreased rent expense by \$5,448 for water and \$2,043 for wastewater. The commission found that the maximum lease amount should be the annual rate of return and original cost of the land when placed in service. The Commission approved an annual land lease of \$405 for water and \$582 for wastewater.

Staff believes the land lease amount should be increased from the last approved amount by an index factor, which is common practice in land lease agreements, including the lease provided. Staff used the United States Bureau of Labor Statistics’ Consumer Price Index to increase the land lease amount by \$138 for water expense and \$199 for wastewater expense. Staff believes these amounts are fair, just, and reasonable to both the land owner and customers.

FUS1 also recorded rent expense to be allocated to East Marion of \$409 for water and \$352 for wastewater for office space. Staff decreased water rent expense by \$27 and increased wastewater rent expense by \$30 to reflect the appropriate allocated expenses from FUS1. Staff has also increased these accounts by \$40 for water expense and wastewater expense to reflect the updated allocations to East Marion. Staff’s net adjustments result in a decrease of water rent expense by \$4,892 and a decrease of wastewater expense by \$1,192. Staff recommends a water rent expense of \$965 and a wastewater rent expense of \$1,203

Transportation Expense (650/750)

East Marion recorded transportation expense of \$512 for water and \$446 for wastewater. Staff decreased this account by \$33 for water and increased this account by \$33 for wastewater to properly allocate this expense between plants. Staff decreased both accounts by \$100 to remove a truck loan not related to this Utility. Staff increased this account by \$114 for both water and wastewater to properly allocate vehicle insurance expense from FUS1. Staff increased these accounts \$57 for water expense and \$57 for wastewater expense to reflect the updated allocations to East Marion from FUS1. Staff also increased this expense by \$43 for both water and wastewater to reclassify expenses from Account 620 and 720. Staff’s total adjustments result in an increase of \$81 for water and \$147 for wastewater. Therefore, staff’s recommended transportation expense is \$593 for water and \$593 for wastewater.

Insurance Expense (655/755)

East Marion recorded insurance expense of \$1,671 for water and \$1,639 for wastewater for the test year. Staff increased this expense by \$21 for both water and wastewater to reflect the appropriate test year expense. Staff decreased this expense by \$705 for water and \$673 for wastewater to appropriately adjust and reclassify health insurance premiums from FUS1 to Accounts 604 and 704. Staff’s net adjustments decrease insurance expense for water by \$684 and for wastewater by \$652. Therefore, staff recommends insurance expense for the test year of \$987 for water and \$987 for wastewater.

¹³Issued August 26, 2002, Docket No. 010869-WS, *In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.*

Regulatory Commission Expense (665/765)

East Marion did not record regulatory commission expense for the test year. By Rule 25-30.0407, F.A.C., a 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 has estimated \$97 for postage expense, \$72 for printing expense, and \$10 for envelopes. These amounts result in \$179 for postage, printing notices, and envelopes. Additionally, the Utility paid a \$1,000 rate case filing fee. Based on the above, staff recommends that total rate case expense is \$1,179, which amortized over four years is \$294 annually. Therefore, staff recommends regulatory commission expense of \$147 for water and \$147 for wastewater.

Miscellaneous Expense (675/775)

East Marion recorded miscellaneous expense of \$1,678 for water and \$1,277 for wastewater. Staff decreased these expenses by \$16 for both water and wastewater to remove overdraft fees. Staff also decreased water expense by \$70 and increased wastewater expense by \$70 to properly allocate expenses between systems. Staff also increased both water and wastewater expense accounts by \$338 to reflect the appropriate amount of Utility expense from FUS1. Staff increased these accounts by \$172 for water expense and \$172 for wastewater expense to reflect the updated allocations to East Marion from FUS1. Staff's total adjustments increase water expense by \$424 and wastewater expense by \$564. Therefore, staff recommends miscellaneous expense of \$2,102 for water and \$1,841 for wastewater.

Operation and Maintenance Expenses Summary

Based on the above adjustments, staff recommends that the O&M expense balances are \$21,766 for water and \$30,590 for wastewater. Staff's recommended adjustments to O&M expense are shown on Schedule Nos. 3-A through 3-E.

Depreciation Expense (Net of Amortization of CIAC)

East Marion recorded depreciation expense of \$4,616 for water and \$19,975 for wastewater during the test year. Staff recalculated depreciation expense using the prescribed rates set forth in Rule 25-30.140, F.A.C. Staff decreased depreciation expense by \$15 for water and \$11,787 for wastewater, which includes removing expense for fully depreciated accounts to reflect the appropriate depreciation expense. Staff also calculated depreciation expense for the plant additions and retirements the Utility requested. These additions result in an increase of \$26 for water. Staff included depreciation expense for the pump repair that is being capitalized; this adjustment results in an increase in wastewater depreciation expense of \$64. Also, staff decreased depreciation expense by \$1,254 for water and \$4,468 for wastewater to reflect the non-U&U portion of the test year depreciation expense. East Marion recorded amortization of CIAC expense as \$1,564 for water and \$3,057 for wastewater during the test year. Staff also recalculated amortization of CIAC expense and increased these accounts by \$286 for water and \$1,739 for wastewater to reflect the appropriate amount of this expense. Staff increased both water and wastewater accounts by \$86 to include depreciation expense for allocated plant from FUS1. Staff's net adjustments are decreases of \$871 to water and \$14,366 to wastewater, resulting in a net depreciation expense of \$2,181 ($\$4,616 - \$1,564 - \871) for water and \$2,552 ($\$19,975 - \$3,057 - \$14,366$) for wastewater.

Taxes Other Than Income (TOTI)

East Marion did not record a TOTI balance for water or wastewater. Staff calculated the Utility's property taxes using updated rates and increased this account \$784 for water and \$784 for wastewater. Staff also included property tax expense for the plant additions resulting in an increase of \$14 to water and \$30 for wastewater. Staff increased this account to include payroll taxes of \$447 for both water and wastewater. Staff increased this account by \$1,076 for water and \$1,615 for wastewater to reflect the appropriate test year Regulatory Assessment Fees (RAFs) based on adjusted test year revenues. Staff also included decreases of \$252 for water and \$466 for wastewater to include non-used and useful property tax. Staff's net adjustments are increases of \$2,069 for water and \$2,410 for wastewater.

In addition, as discussed in Issue 8, revenues have been increased by \$4,492 for water and \$2,859 for wastewater to reflect the change in revenue required to cover expenses and allow the recommended operating margin. As a result, TOTI should be increased by \$202 for water and \$129 for wastewater to reflect RAFs of 4.5 percent on the change in revenues. Therefore, staff recommends TOTI of \$2,271 and \$2,539 for water and wastewater, respectively.

Operating Expenses Summary

The application of staff's recommended adjustments to East Marion's test year operating expenses results in operating expenses of \$26,218 for water and \$35,682 for wastewater. Operating expenses are shown on Schedule Nos. 3-A and 3-B. The related adjustments are shown on Schedule Nos. 3-C, 3-D, and 3-E.

Issue 7: Should the Commission utilize the operating ratio methodology as an alternative means to calculate the water and wastewater revenue requirement for East Marion Utility, LLC, and, if so, what is the appropriate margin?

Recommendation: Yes, the Commission should utilize the operating ratio methodology for calculating the water and wastewater revenue requirements for East Marion. The margin should be 10 percent of O&M expense. (Vogel)

Staff Analysis: Section 367.0814(9), F.S., provides that the Commission may, by rule, establish standards and procedures for setting rates and charges of small utilities using criteria other than those set forth in Sections 367.081(1), (2)(a), and (3), F.S. Rule 25-30.456, F.A.C., provides an alternative to a staff-assisted rate case as described in Rule 25-30.455, F.A.C. As an alternative, utilities with total gross annual operating revenue of less than \$275,000 per system may petition the Commission for staff assistance using alternative rate setting.

East Marion did not petition the Commission for alternative rate setting under the aforementioned rule, but staff believes that the Commission should employ the operating ratio methodology to set rates in this case. The operating ratio methodology is an alternative to the traditional calculation of revenue requirements. Under this methodology, instead of applying a return on the Utility's rate base, the revenue requirement is based East Marion's O&M expenses plus a margin. This methodology has been applied in cases in which the traditional calculation of the revenue requirement would not provide sufficient revenue to protect against potential variances in revenues and expenses.

By Order No. PSC-96-0357-FOF-WU,¹⁴ the Commission, for the first time, utilized the operating ratio methodology as an alternative means for setting rates. This order also established criteria to determine the use of the operating ratio methodology and a guideline margin of 10 percent of O&M expense. This criterion was applied again in Order No. PSC-97-0130-FOF-SU.¹⁵ Most recently, the Commission approved the operating ratio methodology for setting rates in Order No. PSC-16-0126-PAA-WU.¹⁶

By Order No. PSC-96-0357-FOF-WU, the Commission established criteria to determine whether to utilize the operating ratio methodology for those utilities with low or non-existent rate base. The qualifying criteria established by Order No. PSC-96-0357-FOF-WU and how they apply to the Utility are discussed below:

1) Whether the Utility's O&M expense exceeds rate base. The operating ratio method substitutes O&M expense for rate base in calculating the amount of return. A utility generally would not benefit from the operating ratio method if rate base exceeds O&M expense. The decision to use the operating ratio method depends on the determination of whether the primary risk resides in capital costs or operating expenses. In the instant case, the water and wastewater rate bases are

¹⁴Issued March 13, 1996, in Docket No. 950641-WU, *In re: Application for staff-assisted rate case in Palm Beach County by Lake Osborne Utilities Company, Inc.*

¹⁵Issued February 10, 1997, in Docket No. 960561-SU, *In re: Application for staff-assisted rate case in Citrus County by Indian Springs Utilities, Inc.*

¹⁶Issued March 28, 2016, in Docket No. 140220-WU, *In re: Application for staff-assisted rate case in Polk County by Sunrise Utilities, LLC.*

lower than the level of O&M expense. The Utility's primary risk resides with covering its operating expenses. Based on the staff's recommendation, the adjusted water and wastewater rate bases for the test year are \$16,177 and \$12,257, while adjusted O&M expenses are \$21,766 for water and \$30,590 for wastewater.

2) Whether the Utility is expected to become a Class B utility in the foreseeable future. Pursuant to Section 367.0814(9), F.S., the alternative form of regulation being considered in this case only applies to small utilities with gross annual revenue of \$275,000 or less. East Marion is a Class C utility and the recommended revenue requirements of \$28,395 and \$38,741 are substantially below the threshold level for Class B status (\$275,000 per system). The Utility's service area has not had any significant growth in the last five years. Therefore, the Utility will not become a Class B utility in the foreseeable future.

3) Quality of service and condition of plant. As discussed in Issue 1, the quality of service should be considered satisfactory.

4) Whether the Utility is developer-owned. The current Utility owner is not a developer.

5) Whether the Utility operates treatment facilities or is simply a distribution and/or collection system. The issue is whether or not purchased water and/or wastewater costs should be excluded in the computation of the operating margin. East Marion operates water and wastewater treatment plants and a collection system.

Based on staff's review of the Utility's situation relative to the above criteria, staff recommends that East Marion is a viable candidate for the operating ratio methodology.

By Order Nos. PSC-96-0357-FOF-WS and PSC-97-0130-FOF-WU, the Commission determined that a margin of 10 percent shall be used unless unique circumstances justify the use of a greater or lesser margin. The important question is not what the return percentage should be, but what level of operating margin will allow the Utility to provide safe and reliable service and remain a viable entity. The answer to this question requires a great deal of judgment based upon the particular circumstances of the Utility.

Several factors must be considered in determining the reasonableness of a margin. First, the margin must provide sufficient revenue for the Utility to cover its interest expense. Staff believes the margin will provide sufficient revenue to cover East Marion's interest expense.

Second, use of the operating ratio methodology rests on the contention that the principal risk to the Utility resides in operating costs. Also, the operating ratio method recognizes that a major issue for small utilities is cash flow; therefore, the operating ratio method focuses more on cash flow than on investment. In the instant case, the Utility's primary risk resides with covering its operating expense. A traditional calculation of the revenue requirement may not provide sufficient revenue to protect against potential variances in revenues and expenses. Under the rate base methodology, the return to East Marion would be \$888 for water and \$673 wastewater. Staff does not believe this would not provide the necessary financial cushion to successfully operate this Utility.

Third, if the return on rate base method was applied, a normal return would generate such a small level of revenue that in the event revenues or expenses vary from staff's estimates, East Marion could be left with insufficient funds to cover operating expenses. Therefore, the margin should provide adequate revenue to protect against potential variability in revenues and expenses. If the Utility's operating expenses increase or revenues decrease, East Marion may not have the funds required for day-to-day operations. Staff determined that a 10 percent margin would be applicable in this case.

In conclusion, staff believes the above factors show that the Utility needs a higher margin of revenue over operating expenses than the traditional return on rate base method would allow. Therefore, in order to provide East Marion with adequate cash flow to provide some assurance of safe and reliable service, staff recommends application of the operating ratio methodology at a margin of 10 percent of O&M expense for determining the water and wastewater revenue requirements.

Issue 8: What is the appropriate revenue requirement for East Marion Utilities, LLC?

Recommendation: The appropriate revenue requirement is \$28,395 for water and \$38,741 for wastewater, resulting in an annual increase of \$4,492 (18.79 percent) for water and an annual increase of \$2,859 (7.97 percent) for wastewater. (Vogel)

Staff Analysis: East Marion should be allowed an annual increase of \$4,492 (18.79 percent) for water and an annual increase of \$2,859 (7.97 percent) for wastewater. This will allow the Utility the opportunity to recover its expenses as well as a 10 percent margin on O&M expenses for its water and wastewater systems. The calculations are shown in Tables 8-1 and 8-2 for water and wastewater, respectively:

**Table 8-1
Water Revenue Requirement**

Adjusted O&M Expense	\$21,776
Operating Margin (%)	<u>10.00%</u>
Operating Margin (\$)	\$2,177
Adjusted O&M Expense	21,776
Depreciation Expense (Net)	2,181
Taxes Other Than Income	2,069
Test Year RAFs	<u>202</u>
Revenue Requirement	\$28,395
Less Adjusted Test Year Revenues	<u>23,903</u>
Annual Increase	<u>\$4,492</u>
Percent Increase	<u>18.79%</u>

Table 8-2
Wastewater Revenue Requirement

Adjusted O&M Expense	\$30,590
Operating Margin (%)	<u>10.00%</u>
Operating Margin (\$)	\$3,059
Adjusted O&M Expense	30,590
Depreciation Expense (Net)	2,552
Taxes Other Than Income	2,410
Test Year RAFs	<u>129</u>
Revenue Requirement	\$38,741
Less Adjusted Test Year Revenues	<u>35,882</u>
Annual Increase	<u>\$2,859</u>
Percent Increase	<u>7.97%</u>

Issue 9: What are the appropriate rate structures and rates for East Marion Utilities, LLC's water and wastewater systems?

Recommendation: The recommended rate structures and monthly water and wastewater rates are shown on Schedule Nos. 4-A and 4-B. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Bruce)

Staff Analysis:

Water Rates

East Marion is located in Marion County in the St. Johns River Water Management District (SJRWMD). The Utility provides water service to approximately 94 residential customers of which 9 customers have separate meters for irrigation. There are no general service customers. Approximately eight 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 3,973 gallons per month. The average residential water demand excluding zero gallon bills is 4,300 gallons per month. The Utility's current water system rate structure for residential customers consists of a base facility charge (BFC) and two-tier inclining block rate structure. The rate blocks are: (1) 0-10,000 gallons and (2) all usage in excess of 10,000 gallons per month. The general service rate structure consists of a BFC and uniform gallonage charge.

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

For the preliminary rates, staff designed a more conservation-oriented rate structure. However, for the final rates, staff believes an across-the-board increase to the Utility's rates prior to filing is appropriate due to the low revenue requirement percentage increase. In addition, no significant repression is anticipated. To determine the appropriate percentage increase to apply to the service rates, miscellaneous revenues were removed from the test year revenues, resulting in a 19.04 percent increase in the service rates.

Wastewater Rates

East Marion also provides wastewater service to 94 residential customers. There are no general service wastewater customers. Currently, the residential wastewater rate structure consists of a uniform BFC for all meter sizes and a gallonage charge with a 10,000 gallon cap per month. The general service rate structure consists of a BFC by meter size and a gallonage charge that is 1.2 times higher than the residential gallonage charge.

Staff performed an analysis of the Utility's billing data to evaluate various BFC cost recovery percentages and gallonage caps for the residential 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 a gallonage cap that considers approximately the amount of water that may return to the wastewater system.

As discussed for the water system, staff also recommends an across-the-board increase to the Utility's existing wastewater rates due to the recommended low revenue requirement percentage increase. To determine the appropriate percentage increase to apply to the service rates, miscellaneous revenues were removed from the test year revenues, resulting in a 8.04 percent increase in the service rates.

Summary

Based on the foregoing, staff recommends no change to the water and wastewater rate structures. Staff recommends that the water rates be increased by 19.04 percent and wastewater rates be increased by 8.04 percent. The recommended rate structures and monthly water and wastewater rates are shown on Schedule Nos. 4-A and 4-B. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 10: Should the Commission approve East Marion Utilities, LLC's request to implement a convenience charge for customers who opt to pay their bill by debit or credit card?

Recommendation: Yes. East Marion's request for approval of a convenience charge of \$3.43 for customers who opt to pay their bill by credit or debit card should be approved. The convenience charge should be effective on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

East Marion should be required to make a refund to those customers who were assessed an unauthorized convenience charge in accordance with Rule 25-30.360 F.A.C. The refunds should be made with interest and completed within 90 days of the Commission's final order. Monthly reports on the status of the refund shall be made by the 20th of the following month and a report should be completed within 90 days of the completion of the refund consistent with Rule 25-30.360(7), F.A.C. (Bruce)

Staff Analysis: Section 367.091, F.S., authorizes the Commission to establish, increase, or change a rate or charge other than monthly rates or service availability charges. On August 12, 2016, the Utility requested a \$3.43 credit card convenience charge and provided justification as required Section 367.091. F.S. The Utility's cost analysis breakdown for its requested charge is shown below.

**Table 10-1
Convenience Charge Cost Justification**

<u>Activity</u>	<u>Cost</u>
Labor	\$0.54
Supplies	\$0.06
Credit Card Machines	\$2.83
Total Requested	\$3.43

The Commission recently approved a charge of \$3.00 for customers who opt to pay their bill with debit or credit cards for Charlie Creek Utilities, LLC.¹⁷ The charge was designed to recover the cost of supplies, administrative labor, and equipment. As mentioned in Issue 5, East Marion charged several of its customers an unauthorized convenience charge of \$2.50 for using their credit or debit card to pay their bill during the test year. The Utility began assessing the convenience charge on October 5, 2015, and has had a total of 36 occurrences since that time, which results in total collections of \$90. The Utility indicated that charging its customers an unauthorized convenience charge was unintentional. East Marion, along with its sister utilities, are managed by FUS1. The sister utilities have an approved convenience charge and the customer service representative applied the convenience charges to East Marion's customers, inadvertently.

¹⁷Order No. PSC-16-0043-PAA-WU, issued January 25, 2016, in Docket No. 150186-WU, *In re: Application for certificate to operate a water utility in Hardee County by Charlie Creek Utilities, LLC.*

Although the Utility charged an unauthorized convenience charge, staff does not believe the Utility “willfully” disregarded Commission rules or statutes. Staff believes it was unintentional on the Utility’s behalf. However, East Marion should be required to make a refund to those customers who were assessed an unauthorized convenience charge in accordance with Rule 25-30.360 F.A.C. Based on the above, staff believes no enforcement action is warranted at this time. However, East Marion should be put on notice that, in the future, it may be subject to a show cause proceeding by the Commission, including penalties, if the Utility charges amounts other than those approved by the Commission.

Based on the above, East Marion’s request for approval of a convenience charge of \$3.43 for customers who opt to pay their bill by credit or debit card should be approved. The convenience charge should be effective on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

East Marion should be required to make a refund to those customers who were assessed an unauthorized convenience charge in accordance with Rule 25-30.360 F.A.C. The refunds should be made with interest and completed within 90 days of the Commission’s final order. Monthly reports on the status of the refund shall be made by the 20th of the following month and a report should be completed within 90 days of the completion of the refund consistent with Rule 25-30.360(7), F.A.C.

Issue 11: What is the appropriate amount by which rates should be reduced in four years after the published effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816 F.S.?

Recommendation: The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B, to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. East Marion 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. (Vogel, Bruce)

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 reductions are \$170 and \$169 for water and wastewater, respectively.

The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. East Marion 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 East Marion Utility, LLC 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 the Utility on a temporary basis, subject to refund with interest, in the event of a protest filed by a party other than the Utility. East Marion should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. Prior to implementation of any temporary rates, the Utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission's Office of Commission Clerk no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. 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 and wastewater rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, pursuant to Section 367.0814(7), F.S., in the event of a protest filed by a party other than the Utility, staff recommends that the recommended rates be approved as temporary rates. East Marion 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.

East Marion 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 \$4,924. Alternatively, the Utility could establish an escrow agreement with an independent financial institution.

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

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

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

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

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

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

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

Should the recommended rates be approved by the Commission on a temporary basis, East Marion 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 20th 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 East Marion Utilities, LLC be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision?

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

Staff Analysis: East Marion should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. East Marion should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA primary accounts have been made to the Utility's books and records. In the event the Utility needs additional time to complete the adjustments, notice should be provided within seven days prior to the deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days.

Issue 14: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating should be issued. The docket should remain open for staff to verify: (i) the required revised tariff sheets and customer notices have been filed by East Marion Utilities, LLC and approved by our staff; (ii) East Marion Utilities, LLC filed its letter stating it has adjusted its books; and (iii) East Marion Utilities, LLC has properly refunded all unauthorized convenience fee charges collected. Once these actions are complete, this docket should be closed administratively. (Corbari)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating should be issued. The docket should remain open for staff to verify: (i) the required revised tariff sheets and customer notices have been filed by East Marion Utilities, LLC and approved by our staff; (ii) East Marion Utilities, LLC filed its letter stating it has adjusted its books; and (iii) East Marion Utilities, LLC has properly refunded all unauthorized convenience fee charges collected. Once these actions are complete, this docket should be closed administratively.

EAST MARION UTILITIES, LLC		SCHEDULE NO. 1-A	
TEST YEAR ENDED 12/31/15		DOCKET NO. 150257-WS	
SCHEDULE OF WATER RATE BASE			
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUSTMENTS TO UTIL. BAL.	BALANCE PER STAFF
UTILITY PLANT IN SERVICE	\$142,734	\$447	\$143,181
UTILITY PLANT IN SERVICE- ALLOCATED	0	523	523
LAND & LAND RIGHTS	0	0	0
NON-USED AND USEFUL COMPONENTS	0	(14,489)	(14,489)
CIAC	(39,700)	0	(39,700)
ACCUMULATED DEPRECIATION	(99,112)	5,891	(93,221)
ACCUMULATED DEPRECIATION- ALLOCATED	0	(13)	(13)
AMORTIZATION OF CIAC	18,101	(925)	17,176
WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>2,721</u>	<u>2,721</u>
WATER RATE BASE	<u>\$22,023</u>	<u>(\$5,846)</u>	<u>\$16,177</u>

EAST MARION UTILITIES, LCC		SCHEDULE NO. 1-B	
TEST YEAR ENDED 12/31/15		DOCKET NO. 150257-WS	
SCHEDULE OF WASTEWATER RATE BASE			
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUSTMENTS TO UTIL. BAL.	BALANCE PER STAFF
UTILITY PLANT IN SERVICE	\$482,102	\$954	\$483,056
UTILITY PLANT IN SERVICE – ALLOCATED	0	523	523
LAND & LAND RIGHTS	0	0	0
NON-USED AND USEFUL COMPONENTS	0	(51,328)	(51,328)
CIAC	(77,600)	0	(77,600)
ACCUMULATED DEPRECIATION	(390,285)	15,881	(374,404)
ACCUMULATED DEPRECIATION - ALLOCATED	0	(13)	(13)
AMORTIZATION OF CIAC	29,279	(1,080)	28,199
WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>3,824</u>	<u>3,824</u>
WASTEWATER RATE BASE	<u>\$43,496</u>	<u>(\$31,239)</u>	<u>\$12,257</u>

EAST MARION UTILITIES, LLC		SCHEDULE NO. 1-C	
TEST YEAR ENDED 12/31/15		DOCKET NO. 150257-WS	
ADJUSTMENTS TO RATE BASE			
	<u>WATER</u>	<u>WASTEWATER</u>	
<u>UTILITY PLANT IN SERVICE</u>			
1. To reflect pro forma plant replacements and retirements.	\$894	\$0	
2. To capitalize a pump repair previously placed in Acct. 636 and 736.	0	1,908	
3. Averaging adjustment.	<u>(447)</u>	<u>(954)</u>	
Total	<u>\$447</u>	<u>\$954</u>	
<u>UTILITY PLANT IN SERVICE – ALLOCATED</u>			
1. To allocated common plant from FUS1.	\$547	\$547	
2. Averaging adjustment.	<u>(24)</u>	<u>(24)</u>	
Total	<u>\$523</u>	<u>\$523</u>	
<u>NON-USED AND USEFUL PLANT</u>			
1. To reflect non-used and useful plant.	(\$45,257)	(\$276,423)	
2. To reflect non-used and useful accumulated depreciation.	30,767	225,096	
Total	<u>(\$14,489)</u>	<u>(\$51,328)</u>	
<u>ACCUMULATED DEPRECIATION</u>			
1. To reflect plant retirements.	\$2,656	\$0	
2. Depreciation adjustment per Rule 25-30.140 F.A.C.	(26)	11,787	
3. Averaging adjustment.	<u>3,261</u>	<u>4,094</u>	
Total	<u>\$5,891</u>	<u>\$15,881</u>	
<u>ACCUMULATED DEPRECIATION – ALLOCATED</u>			
1. To reflect the appropriate Accumulated Depreciation – Allocated.	(\$20)	(\$20)	
2. Averaging adjustment.	<u>7</u>	<u>7</u>	
Total	<u>(\$13)</u>	<u>(\$13)</u>	
<u>AMORTIZATION OF CIAC</u>			
1. To reflect the appropriate amount of amortization.	(\$286)	(\$421)	
2. To reflect an averaging adjustment.	<u>(639)</u>	<u>(659)</u>	
Total	<u>(\$925)</u>	<u>(\$1,080)</u>	
<u>WORKING CAPITAL ALLOWANCE</u>			
To reflect 1/8 of test year O&M expenses.	<u>\$2,721</u>	<u>\$3,824</u>	

EAST MARION UTILITIES, LLC							SCHEDULE NO. 2		
TEST YEAR ENDED 12/31/15							DOCKET NO. 150257-WS		
SCHEDULE OF CAPITAL STRUCTURE									
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	\$0	\$10,000	\$10,000	\$0	\$0	0.00%	11.16%	0.00%	
2. RETAINED EARNINGS	(172,102)	162,102	(10,000)	0	0	0.00%	0.00%	0.00%	
3. LONG-TERM DEBT	(6,675)	97,000	90,325	(65,515)	24,810	87.25%	6.00%	5.24%	
4. SHORT-TERM DEBT	0	0	0	0	0	0.00%	0.00%	0.00%	
5. PREFERRED STOCK	0	0	0	0	0	0.00%	0.00%	0.00%	
6. CUSTOMER DEPOSITS	3,493	132	3,625	0	3,625	12.75%	2.00%	0.25%	
7. TOTAL	<u>(\$175,284)</u>	<u>\$269,234</u>	<u>\$93,950</u>	<u>(\$65,515)</u>	<u>\$28,435</u>	<u>100.00%</u>		<u>5.49%</u>	
RANGE OF REASONABLENESS						<u>LOW</u>	<u>HIGH</u>		
RETURN ON EQUITY						<u>10.16%</u>	<u>12.16%</u>		
OVERALL RATE OF RETURN						<u>5.49%</u>	<u>5.49%</u>		

EAST MARION UTILITIES, LLC			SCHEDULE NO. 3-A		
TEST YEAR ENDED 12/31/15			DOCKET NO. 150257-WS		
SCHEDULE OF WATER OPERATING INCOME					
	TEST YEAR	STAFF	STAFF	ADJUST.	REVENUE
	PER UTILITY	ADJUSTMENTS	ADJUSTED	FOR	REQUIREMENT
			TEST YEAR	INCREASE	
1. OPERATING REVENUES	<u>\$23,718</u>	<u>\$185</u>	<u>\$23,903</u>	<u>\$4,492</u> 18.79%	<u>\$28,395</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$31,349	(\$9,583)	\$21,766	\$0	\$21,766
3. DEPRECIATION (NET)	3,052	(871)	2,181	0	2,181
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	0	2,069	2,069	202	2,271
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$34,401</u>	<u>(\$8,385)</u>	<u>\$26,016</u>	<u>\$202</u>	<u>\$26,218</u>
8. OPERATING INCOME/(LOSS)	<u>(\$10,568)</u>		<u>(\$2,113)</u>		<u>\$2,177</u>
9. WATER O&M EXPENSES	<u>\$31,349</u>		<u>\$21,766</u>		<u>\$21,766</u>
10. OPERATING MARGIN					<u>10.00%</u>

EAST MARION UTILITIES, LLC			SCHEDULE NO. 3-B		
TEST YEAR ENDED 12/31/15			DOCKET NO. 150257-WS		
SCHEDULE OF WASTEWATER OPERATING INCOME					
	TEST YEAR	STAFF	STAFF	ADJUST.	REVENUE
	PER UTILITY	ADJUSTMENTS	ADJUSTED	FOR	REQUIREMENT
			TEST YEAR	INCREASE	
1. OPERATING REVENUES	<u>\$34,144</u>	<u>\$1,738</u>	<u>\$35,882</u>	<u>\$2,859</u> 7.97%	<u>\$38,741</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$31,966	(\$1,376)	\$30,590	\$0	\$30,590
3. DEPRECIATION (NET)	16,918	(14,366)	2,552	0	2,552
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	0	2,410	2,410	129	2,539
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$48,884</u>	<u>(\$13,331)</u>	<u>\$35,553</u>	<u>\$129</u>	<u>\$35,682</u>
8. OPERATING INCOME/(LOSS)	<u>(\$14,740)</u>		<u>\$329</u>		<u>\$3,059</u>
9. WASTEWATER O&M EXPENSES	<u>\$31,966</u>		<u>\$30,590</u>		<u>\$30,590</u>
10. OPERATING RATIO					<u>10.00%</u>

EAST MARION UTILITIES, LLC		SCHEDULE NO. 3-C	
TEST YEAR ENDED 12/31/15		DOCKET NO. 150257-WS	
ADJUSTMENTS TO OPERATING INCOME		Page 1 of 3	
	<u>WATER</u>	<u>WASTEWATER</u>	
OPERATING REVENUES			
1.	To reflect the appropriate test year revenues.	\$380	\$1,428
2.	To reflect miscellaneous revenues.	(310)	310
	Subtotal	<u>\$70</u>	<u>\$1,738</u>
OPERATION AND MAINTENANCE EXPENSES			
1.	Salaries and Wages – Employees (601/701)		
	a. To remove a payroll markup.	(\$60)	(\$60)
	b. To reclassify salary expense from Acct. 636/736.	225	225
	c. To reflect the appropriate payroll tax.	(315)	(315)
	d. To reflect the new allocations.	450	450
	e. To include the new salary information.	<u>(94)</u>	<u>(94)</u>
	Subtotal	<u>\$206</u>	<u>\$206</u>
2.	Salaries and Wages – Officers (603/703)		
	a. To remove former owner’s salary.	(\$654)	(\$654)
	b. To reflect the new salary information.	<u>259</u>	<u>259</u>
	Subtotal	<u>(\$395)</u>	<u>(\$395)</u>
3.	Employee Pension & Benefits (604/704)		
	a. To reflect appropriate amount of benefit expense.	\$512	\$512
	b. To reflect the new allocations.	<u>54</u>	<u>54</u>
	Subtotal	<u>\$566</u>	<u>\$566</u>
4.	Purchased Power (615/715)		
	a. To include appropriate Utility expenses for the test year.	\$205	\$56
	b. To properly allocate expenses between systems.	(406)	(376)
	c. To remove late fees.	<u>0</u>	<u>(28)</u>
	Subtotal	<u>(\$201)</u>	<u>(\$348)</u>
5.	Chemicals (618/718)		
	To properly allocate expenses between systems.	<u>(\$347)</u>	<u>\$347</u>
6.	Materials & Supplies (620/720)		
	a. To remove purchases outside the test year.	(\$68)	(\$68)
	b. To remove items not related to the Utility.	(132)	(91)
	c. To reflect the new allocations.	62	64
	d. To reclassify expenses to Account 650/750).	<u>(43)</u>	<u>(43)</u>
	Subtotal	<u>(\$181)</u>	<u>(\$138)</u>
7.	Contractual Services – Professional (631/731)		
	a. To properly allocate expenses between systems.	(\$100)	\$100
	b. To exclude expenses from a lawsuit.	(66)	(66)
	Subtotal	<u>(\$166)</u>	<u>\$34</u>
8.	Contractual Services – Testing (635/735)		
	To properly allocate expenses between systems.	<u>\$928</u>	<u>(\$928)</u>

EAST MARION UTILITIES, LLC		SCHEDULE NO. 3-C	
TEST YEAR ENDED 12/31/15		DOCKET NO. 150257-WS	
ADJUSTMENTS TO OPERATING INCOME		Page 2 of 3	
	<u>WATER</u>	<u>WASTEWATER</u>	
9. Contractual Services - Other (636/736)			
a. To remove expenses outside the test year.	(\$98)	(\$98)	
b. To properly allocate expenses between systems.	(1,779)	1,757	
c. To remove an additional mowing bill.	(225)	0	
d. To include an unrecorded bill.	230	345	
e. To remove a major pump repair and capitalize the expense.	(954)	(954)	
f. To amortize non-recurring tree trimming expense.	(420)	(420)	
g. To amortize non-recurring tank cleaning.	(1,440)	0	
h. To reclassify salary expense to Accounts 601 and 701.	(225)	(225)	
i. To reflect the new allocations.	2	2	
j. To remove items not related to the Utility.	<u>(160)</u>	<u>(141)</u>	
Subtotal	<u>(\$5,069)</u>	<u>\$266</u>	
10. Rent Expense (640/740)			
a. To reflect appropriate amount and allocation of expenses.	(\$5,448)	(\$2,043)	
b. To reflect the land lease established in previous case.	405	582	
b. To reflect the inflation adjustment to land lease.	138	199	
c. To reflect the new allocations.	40	40	
b. To reflect the appropriate allocated expenses from FUS1.	<u>(27)</u>	<u>30</u>	
Subtotal	<u>(\$4,892)</u>	<u>(\$1,192)</u>	
11. Transportation Expense (650/750)			
a. To reallocate expenses appropriately.	(\$33)	\$33	
b. To remove a truck loan not related to the Utility.	(100)	(100)	
c. To appropriately allocate expenses to the Utility.	114	114	
d. To reflect the new allocations.	57	57	
e. To reclassify expenses from Accounts 620 and 720.	<u>43</u>	<u>43</u>	
Subtotal	<u>\$81</u>	<u>\$147</u>	
12. Insurance Expense (655/755)			
a. To reflect appropriate insurance expense.	\$21	\$21	
b. To remove health insurance premiums.	<u>(705)</u>	<u>(673)</u>	
Subtotal	<u>(\$684)</u>	<u>(\$652)</u>	
13. Regulatory Commission Expense (665/765)			
To include rate case expense.	<u>\$147</u>	<u>\$147</u>	
14. Miscellaneous Expense (675/775)			
a. To remove overdraft fees.	(\$16)	(\$16)	
b. To reflect the appropriate allocation of expenses.	(70)	70	
c. To reflect the appropriate amount of Utility expense from FUS1.	338	338	
d. To reflect the new allocations.	<u>172</u>	<u>172</u>	
Subtotal	<u>\$424</u>	<u>\$564</u>	
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	<u>(\$9,583)</u>	<u>(\$1,376)</u>	

EAST MARION UTILITIES, LLC		SCHEDULE NO. 3-C	
TEST YEAR ENDED 12/31/15		DOCKET NO. 150257-WS	
ADJUSTMENTS TO OPERATING INCOME		Page 3 of 3	
	<u>WATER</u>	<u>WASTEWATER</u>	
DEPRECIATION EXPENSE			
1. To reflect test year depreciation calculated per Rule 25-30.140, F.A.C.	(\$15)	(\$11,787)	
2. To include depreciation expense for pro forma plant.	26	0	
3. To include depreciation expense for pump repair.	0	64	
4. To reflect non-used and useful depreciation expense.	(1,254)	(4,468)	
5. To reflect the appropriate amount of amortization expense of CIAC.	286	1,739	
6. To reflect appropriate depreciation expense from allocated plant.	<u>86</u>	<u>86</u>	
Total	<u>(\$871)</u>	<u>(\$14,366)</u>	
TAXES OTHER THAN INCOME			
1. To reflect property taxes.	\$784	\$784	
2. To reflect appropriate property tax for plant additions.	14	30	
3. To reflect payroll taxes.	447	447	
4. To reflect the appropriate test year RAFs.	1,076	1,615	
5. To reflect non-used and useful property tax.	<u>(252)</u>	<u>(466)</u>	
Total	<u>\$2,069</u>	<u>\$2,410</u>	

EAST MARION UTILITIES, LLC		SCHEDULE NO. 3-D	
TEST YEAR ENDED 12/31/15		DOCKET NO. 150257-WS	
ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE			
	TOTAL PER UTILITY	STAFF ADJUST- MENTS	TOTAL PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	\$4,246	\$206	\$4,452
(603) SALARIES AND WAGES - OFFICERS	2,154	(395)	1,759
(604) EMPLOYEE PENSIONS AND BENEFITS	0	566	566
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	1,267	(201)	1,066
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	1,189	(347)	842
(620) MATERIALS AND SUPPLIES	826	(181)	645
(630) CONTRACTUAL SERVICES - BILLING	0	0	0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	266	(166)	100
(633) CONTRACTUAL SERVICES – TESTING	928	928	1,856
(636) CONTRACTUAL SERVICES - OTHER	10,755	(5,069)	5,686
(640) RENTS	5,857	(4,892)	965
(650) TRANSPORTATION EXPENSE	512	81	593
(655) INSURANCE EXPENSE	1,671	(684)	987
(665) REGULATORY COMMISSION EXPENSE	0	147	147
(670) BAD DEBT EXPENSE	0	0	0
(675) MISCELLANEOUS EXPENSE	<u>1,678</u>	<u>424</u>	<u>2,102</u>
	<u>\$31,349</u>	<u>(\$9,583)</u>	<u>\$21,766</u>

EAST MARION UTILITIES, LLC		SCHEDULE NO. 3-E	
TEST YEAR ENDED 12/31/15		DOCKET NO. 150257-WS	
ANALYSIS OF WASTEWATER OPERATION AND MAINTENANCE EXPENSE			
	TOTAL PER UTILITY	STAFF ADJUST- MENTS	TOTAL PER STAFF
(701) SALARIES AND WAGES - EMPLOYEES	\$4,246	\$206	\$4,452
(703) SALARIES AND WAGES - OFFICERS	2,154	(395)	1,759
(704) EMPLOYEE PENSIONS AND BENEFITS	0	566	566
(710) PURCHASED SEWAGE TREATMENT	0	0	0
(711) SLUDGE REMOVAL EXPENSE	2,859	0	2,859
(715) PURCHASED POWER	5,158	(348)	4,810
(716) FUEL FOR POWER PRODUCTION	0	0	0
(718) CHEMICALS	1,189	347	1,536
(720) MATERIALS AND SUPPLIES	808	(138)	670
(730) CONTRACTUAL SERVICES - BILLING	0	0	0
(731) CONTRACTUAL SERVICES - PROFESSIONAL	66	34	100
(735) CONTRACTUAL SERVICES - TESTING	928	(928)	0
(736) CONTRACTUAL SERVICES - OTHER	8,801	266	9,067
(740) RENTS	2,395	(1,192)	1,203
(750) TRANSPORTATION EXPENSE	446	147	593
(755) INSURANCE EXPENSE	1,639	(652)	987
(765) REGULATORY COMMISSION EXPENSE	0	147	147
(770) BAD DEBT EXPENSE	0	0	0
(775) MISCELLANEOUS EXPENSE	<u>1,277</u>	<u>564</u>	<u>1,841</u>
	<u>\$31,966</u>	<u>(\$1,376)</u>	<u>\$30,590</u>

EAST MARION UTILITIES, LLC.		SCHEDULE NO. 4-A		
TEST YEAR ENDED DECEMBER 31, 2015		DOCKET NO. 150257-WS		
MONTHLY WATER RATES				
	RATES AT TIME OF FILING	RECOMMENDED INTERIM RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential, Irrigation, and General Service</u>				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$10.05	\$11.73	\$11.96	\$0.07
3/4"	\$15.10	\$17.60	\$17.94	\$0.11
1"	\$25.15	\$29.33	\$29.90	\$0.18
1-1/2"	\$50.29	\$58.65	\$59.80	\$0.36
2"	\$80.47	\$93.84	\$95.68	\$0.58
3"	\$160.94	\$187.68	\$191.36	\$1.15
4"	\$251.47	\$293.25	\$299.00	\$1.80
6"	\$502.93	\$586.50	\$598.00	\$3.61
Charge per 1,000 gallons - Residential and Irrigation Service				
0-10,000 gallons	\$2.11	\$2.46	\$2.51	\$0.01
Over 10,000 gallons	\$3.15	\$3.68	\$3.75	\$0.02
Charge per 1,000 gallons - General Service				
	\$2.46	\$2.87	\$2.93	\$0.02
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>				
4,000 Gallons	\$18.49	\$21.57	\$22.00	
8,000 Gallons	\$26.93	\$31.41	\$32.04	
10,000 Gallons	\$31.15	\$36.33	\$37.06	

EAST MARION UTILITIES, LLC.		SCHEDULE NO. 4-B	
TEST YEAR ENDED DECEMBER 31, 2015		DOCKET NO. 150257-WS	
MONTHLY WASTEWATER RATES			
	RATES AT TIME OF FILING	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential</u>			
Base Facility Charge - All Meter Sizes	\$15.37	\$16.61	\$0.07
Charge Per 1,000 gallons			
10,000 gallon cap	\$4.69	\$5.07	\$0.02
-			
<u>General Service</u>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$15.37	\$16.61	\$0.07
3/4"	\$23.05	\$24.92	\$0.11
1"	\$38.42	\$41.53	\$0.18
1-1/2"	\$76.84	\$83.05	\$0.37
2"	\$122.92	\$132.88	\$0.59
3"	\$245.86	\$265.76	\$1.17
4"	\$384.16	\$415.25	\$1.83
6"	\$768.28	\$830.50	\$3.66
Charge per 1,000 gallons	\$5.63	\$6.08	\$0.03
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
4,000 Gallons	\$34.13	\$36.89	
8,000 Gallons	\$52.89	\$57.17	
10,000 Gallons	\$62.27	\$67.31	
<u>Residential</u>			
Base Facility Charge - All Meter Sizes	\$15.37	\$16.61	\$0.07

Item 6

FILED JAN 26, 2017
DOCUMENT NO. 00933-17
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: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Hill, Graves, King)
Division of Accounting and Finance (Frank, Norris)
Division of Economics (Bruce, Hudson, Johnson)
Office of the General Counsel (Leathers, Crawford)

Handwritten signatures and initials in blue and purple ink, including "ALM" and "DF".

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

AGENDA: 02/07/17 – Regular Agenda – Proposed Agency Action – Except for Issue Nos. 21 and 23 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: 02/07/17 (5-Month Effective Date Waived Through February 07, 2017)

SPECIAL INSTRUCTIONS: None

Table of Contents

Case Background	1
Discussion of Issues.....	2
Issue 1 Quality of Service.....	2
Issue 2 Adjustments to Rate Base.....	5
Issue 3 Original Cost Study	6
Issue 4 Further Adjustments to Rate Base.....	9
Issue 5 Adjustments to Pro Forma Plant.....	10
Issue 6 Used and Useful.....	12
Issue 7 Working Capital Allowance	13
Issue 8 Rate Base	14
Issue 9 Return on Equity.....	15
Issue 10 Cost Of Capital	16
Issue 11 Test Year Revenues	17
Issue 12 Adjustments to Pro Forma Expenses.....	18
Issue 13 Salaries and Wages Expense	20
Issue 14 Operating Expense.....	23
Issue 15 Rate Case Expense.....	25
Issue 16 Revenue Requirement.....	29
Issue 17 Rate Structures and Rates	30
Issue 18 Late Payment Charge.....	33
Issue 19 Service Availability Charges	35
Issue 20 Customer Deposits.....	37
Issue 21 Four Year Rate Reduction	38
Issue 22 Interim Revenue Refund.....	39
Issue 23 Proof of Adjustments.....	40
Issue 24 Docket Closure	41
Schedule No. 1-A Water Rate Base.....	42
Schedule No. 1-B Adjustments to Rate Base.....	43
Schedule No. 2 Capital Structure Simple Average.....	44
Schedule No. 3-A Statement of Water Operations	45
Schedule No. 3-B Adjustment to Operating Income	46
Schedule No. 4 Monthly Water Rates.....	47

Case Background

Bocilla Utilities, Inc. (Bocilla or Utility) is a Class B utility providing water service to approximately 400 water customers in Charlotte County. Effective February 12, 2013, Bocilla was granted water Certificate No. 662-W.¹ Bocilla's rates have never been established for ratemaking purposes by the Florida Public Service Commission (Commission or PSC).

On May 24, 2016, Bocilla filed its application for the rate increase at issue. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure. The test year established for interim and final rates is the 12-month period ended December 31, 2015.

The Utility's application did not initially meet the minimum filing requirements (MFRs). On June 23, 2016, staff sent Bocilla a letter indicating deficiencies in the filing of its MFRs. The Utility filed a response to staff's deficiency letter which satisfied the MFRs on July 19, 2016, and thus the official filing date was established as July 19, 2016, pursuant to Section 367.083, Florida Statutes (F.S.).

The Utility asserts that it is requesting an increase to recover reasonable and prudent costs for providing service and a reasonable rate of return on investment, including pro forma plant improvements. Bocilla is requesting final rates designed to generate annual revenues of \$552,015. This represents a revenue increase of \$161,000 (41.17 percent). The Utility requested interim rates, which were granted on August 29, 2016.² This recommendation addresses Bocilla's requested final rates. The 5-month effective date has been waived by the Utility through February 7, 2017. The Commission has jurisdiction pursuant to Section 367.081 and 367.091, F.S.

¹Order 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.*

²Order No. PSC-16-0364-PCO-WU, issued August 29, 2016, in Docket No. 160065-WU, *In re: Application for increase in water rates in Charlotte County by Bocilla Utilities, Inc.*

Discussion of Issues

Issue 1: Is the quality of service provided by Bocilla satisfactory?

Recommendation: Yes. Staff recommends that the quality of Bocilla's product and the condition of the water treatment facilities is satisfactory. It appears that the Utility has attempted to address customers' concerns. Therefore, staff recommends that the overall quality of service for the Bocilla water system in Charlotte County is satisfactory. (Hill)

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

Quality of Utility's Product

Bocilla's service area is located in Charlotte County. Bocilla purchases all of its water from the Englewood Water District (EWD). Staff's evaluation of Bocilla's water quality consisted of a review of the Utility's compliance with DEP standards. On October 23, 2014, the Utility provided affirmation to DEP that it removed its water treatment facility from service and became a consecutive user.

As a consecutive water user, Bocilla only maintains its distribution system and no longer operates supply wells. As a consecutive system, the secondary standards of the Utility's water are not regulated by DEP. On December 12, 2016, DEP communicated to the Utility that its bacteriological test results were satisfactory. During the test year it was determined that nitrification issues were causing odor and color issues. The Utility exercised extensive flushing to address the issue. The Utility also worked with DEP and the Florida Rural Water Association to determine a cost effective resolution to the nitrification issue. In order to address nitrification as well as bio-film buildup in its system, Bocilla is installing a chloramine feed system, which will be in-service by March 1, 2017.

Operating Conditions of the Utility's Plant and Facilities

On December 1, 2016, DEP conducted a compliance evaluation inspection of Bocilla's facilities. Based on the information provided during the inspection, DEP determined that Bocilla's facilities were in compliance with DEP rules and regulations. Giving consideration to DEP's inspection results, staff recommends that the operating conditions of Bocilla's facilities are satisfactory. Staff performed a site visit on October 4, 2016. During the visit, plant components appeared to be well maintained, with the exception of some salt water corrosion on

some components identified by the Utility to be repaired or replaced, as described in Issues 5 and 12.

The Utility’s Attempt to Address Customer Satisfaction

In order to determine the Utility’s attempt to address customer satisfaction, staff reviewed customer complaints and comments from five sources: the Commission’s Consumer Activity Tracking System (CATS), complaints filed with DEP, complaints filed with the Utility, complaints raised during the customer meeting, and all correspondence submitted to the Commission Clerk regarding this rate case. A summary of all complaints and comments received is shown in Table 1-1 below.

**Table 1-1
 Number of Complaints by Source**

Subject of Complaint	PSC’s Records (CATS) (test year and 4 prior years)	Utility’s Records (test year and 4 prior years)	DEP (test year and 4 prior years)	Docket Correspondence	Customer Meeting
Billing Related	2				1
Opposing Rate Increase				6	7
Water Quality		1		2	5
Quality of Service				1	4
Boil Water Notice				3	4
Water Pressure				4	1
Total*	2	1	0	7	9

* A complaint may appear twice in this table if it meets multiple categories

Staff reviewed the Commission’s complaint records from January 1, 2011, through December 31, 2015, and found two complaints. Based on staff’s review, both complaints were related to billing and both complaints have been closed. Staff also requested complaints against the Utility filed with DEP for the 2015 test year and four years prior. DEP indicated that it has not received any complaints against the Utility during the requested time frame. The Utility recorded one complaint for this time period regarding its quality of service. The one complaint addressed the color of the water. As previously addressed, the Utility is installing a chloramine feed system to address color and odor issues. Based on the records of the Utility and the Commission, it appears that the Utility has responded in a timely manner to each of these complaints.

A customer meeting was held in Englewood, Florida, on October 5, 2016. Approximately thirty of the Utility’s customers attended the meeting and nine spoke. The subjects of the complaints included (1) billing issues, (2) affordability of the rate increase, (3) water quality/odor/color, (4) responsiveness of the Utility, (5) the boil water notice procedure, and (6) insufficient water

pressure. As previously addressed, the Utility is installing a chloramine feed system to address color and odor issues. Regarding the customer complaints about the Utility's boil water notice, staff has reviewed the Utility's boil water notice procedure and believes that it is in compliance with Section 381.0062(2)(j), F.S. The Utility provided records of previously distributed boil water notices which fit these requirements. Regarding water pressure concerns, the Utility stated that, outside of low pressure events related to damage to the system, its pressure is maintained using its pressure boost station. The Utility also provided a certified fire flow report which indicates adequate pressure for fire protection.

Staff believes that the Utility's attempts to address customer satisfaction should be considered satisfactory. Staff's conclusion is based on the low number of complaints received by the Commission, DEP, and the Utility as well as the Utility's responsiveness to customer concerns.

Conclusion

Based on review of DEP records, staff recommends that the quality of Bocilla's product and the condition of its facilities is satisfactory. Additionally, it appears that the Utility has attempted to address customers' concerns. Therefore, staff recommends that the overall quality of service for the Bocilla water system in Charlotte County is satisfactory.

Issue 2: Should the audit adjustments to rate base to which the Utility and staff agree be made?

Recommendation: Yes. Accumulated amortization of Contributions-in-aid-of-Construction (CIAC) should be decreased by \$44,625, and CIAC amortization expense should be decreased by \$3,538. Further, Operations and Maintenance (O&M) expense should be decreased by \$2,271. (Frank, Hill)

Staff Analysis: In its response to the staff audit report of the Utility, Bocilla agreed to the audit adjustments as set forth in Tables 2-1 and 2-2 below.

**Table 2-1
 Description of Audit Adjustments**

Audit Adjustments	Description of Adjustments
Finding 6	Reflect appropriate accumulated amortization of CIAC.
Finding 8	Reclassify certain amounts and remove unsupported & out-of-period costs.

Source: Staff Audit

Based on the audit adjustments agreed to by the Utility, staff recommends that the adjustments set forth in Table 2-2 be made to rate base and net operating income.

**Table 2-2
 Adjustments to Rate Base and Net Operating Income (NOI)**

Audit Adjustments	Accum. Amort. of CIAC	O&M Expense	CIAC Amort. Expense
Finding 6	(\$44,625)		\$3,538
Finding 8		(\$2,271)	

Source: Staff Audit and Utility's Response to Audit

Issue 3: Should the full amount of the original cost study provided by the Utility be accepted as a factor in determining Utility Plant in Service?

Recommendation: No. Staff recommends that the original cost study is sufficient to support the amount of Utility Plant in Service (UPIS) presented in the MFRs; however, errors and discrepancies discovered by staff suggest that the original cost study is not sufficiently reliable to support the higher plant values. Staff recommends that UPIS balances should be based on the MFRs for all accounts except 311.2 – Pumping Equipment, with adjustments described below. Accordingly, UPIS should be \$1,197,605. Corresponding adjustments should also be made to increase accumulated depreciation by \$2,856 and decrease depreciation expense by \$3,861. Additionally, property taxes should be decreased by \$5,006. (Hill, Frank)

Staff Analysis: The staff auditor examined all records kept by Bocilla to determine which plant costs could be supported. The auditor found \$577,798 from account 331.4 - Transmission and Distribution Mains was not supported by invoices and recommended it be removed from plant. Additionally, there were physical assets such as pumping equipment, which was neither supported by records nor reflected in the Utility's current books. On its own initiative, Bocilla decided to contract for an original cost study to determine a value for UPIS that better reflects the original cost of the Utility's investment in assets to serve customers for all plant additions prior to and including 2014. The procedure for determining original cost consists of identifying the existence of the assets, estimating their specifications, and calculating the likely historical cost of these assets at the time they were placed into utility service.

The referenced source for cost information for the study was the Engineer's Estimate of Reproduction Cost prepared by Giffels-Webster Engineers, Inc. Costs of each component were calculated based on recent water utility construction, such as a Sarasota County Utilities project. In preparing the subsequent original cost study, Management & Regulatory Consultants, Inc. adjusted these costs using the Handy-Whitman Water Utility Index. The index uses historical trends to indicate how each type of utility component has changed in price, and was used to convert the recent cost references to the year each component was placed into service for Bocilla. Staff believes that the described methodology is reasonable for establishing original cost of service. Although staff believes that the methodology for establishing original cost of service is reasonable, staff has several concerns regarding the overall reliability of the original cost study for estimating costs. Staff's concerns are discussed in detail below.

Staff produced four rounds of information requests regarding the original cost study. Staff has identified in Bocilla's responses several errors in component costs, installation dates, and depreciation methodology. The errors in component costs are summarized in Table 3-1. The original cost study did not include known plant additions (meter installations) for the year 2015. The Utility explained that it did not reflect the addition of the new meters because the meters were replacements and not for new customers. Treating plant additions in this manner misrepresents UPIS as well as accumulated depreciation.

**Table 3-1
 Description of Original Cost Study Errors**

Error	Description of Error
U-17 understated by \$500, U-18 understated by \$500, U-19 overstated by \$500	Staff requested additional information about the meter installation, U-19. In its response, Bocilla discovered that water service (short side) U-17 should be \$800 instead of \$300, water service (long side) U-18 should be \$1,000 instead of \$500, and meter installed U-19 should be \$500 instead of \$1,000. These discrepancies are based on a response from Giffels-Webster Engineers, Inc. to Bocilla. This error does not impact total UPIS but does affect accumulated depreciation because these components have different depreciation rates.
U-19 overstated by \$135	U-19 represents the installation price of a meter, as estimated by Giffels-Webster Engineers, Inc. In response to staff's third data request, the Utility stated that the actual cost to install a meter is \$365. This value, modified using the Handy-Whitman Index, more accurately estimates the historical cost of installing a meter. This error overstates UPIS by \$35,350.
Remove U-16 \$19,267.44 from 2004	U-16 represents the assets related to an interconnect to supply Knight Island Utilities (KIU) with water it purchases from EWD. As such, it should be considered a non-utility asset.
Remove U-15 \$878.36 from 1991	Staff requested additional information about directional drill U-15, at which point the Utility discovered that this item was already accounted for in another line item and should be removed.
Allocate 36 percent of Zone 9 assets to KIU	Zone 9 items represent the interconnect with EWD, including the booster station and the sub-aqueous crossing to the mainland. These assets all directly benefit KIU. The Utility agrees that 36 percent of the value of these assets should be allocated to KIU based on the relative Equivalent Residential Connection (ERC) capacities of Bocilla and KIU, 715 and 400, respectively.

Information provided by the Utility, in response to requests from staff, suggests that plant was installed during time periods that reflect no additions in the original cost study. Additionally, staff found that the original cost study did not use the correct group depreciation methodology when calculating accumulated depreciation.

Although staff has concerns regarding the original cost study, staff believes that the information provided can reasonably be used to conclude that the plant in service for transmission and distribution is at or above the amount contained in the Utility's MFRs. Based on the original cost study, plant in service for transmission and distribution totaled \$1,465,171. This total is nearly 35 percent greater than what the Utility included in its MFRs. Furthermore, due to a lack of records, the audit only traced additions back to 2007. The original cost study shows additions totaling more than \$1 million prior to 2007.

Staff believes that the Commission should approve UPIS balances based on the MFRs for all accounts except 311.2 – Pumping Equipment. Pumping equipment is installed above-ground and staff's October 4, 2016 site visit included this boost station. Additionally, staff has found no errors or discrepancies in this portion of the original cost study. For these reasons, staff believes that this recent investment by the Utility should be included in UPIS based on the original cost study. The total amount of this investment should therefore be \$114,928.

Staff has identified two additional adjustments which should be made. KIU is a Utility which serves customers on the same island as Bocilla. KIU also purchases its water from EWD, by way of Bocilla's system through an interconnect metered by EWD. KIU is not a customer of Bocilla yet it receives the benefit of Bocilla's boost station, the interconnect with EWD, and the sub-aqueous crossing of Lemon Bay. Bocilla agrees that 36 percent of the value of these assets should be allocated to KIU based on the relative ERC capacities of Bocilla and KIU, 715 and 400, respectively. Thus, account 331.4 – Transmission & Distribution Mains should be decreased by \$197,867 (36% of \$390,770 for the lines from EWD to the boost station, and 36 percent of \$160,784 for the sub-aqueous crossing) and 311.2 – Pumping Equipment should be reduced by \$41,229 (36% of \$114,928).

As a result of the above, corresponding adjustments should also be made to increase accumulated depreciation by \$2,856 and decrease depreciation expense by \$3,861. Additionally, property taxes should be decreased by \$5,006.

Conclusion

Staff recommends that the original cost study is sufficient to support the amount of UPIS presented in the MFRs, but that errors and discrepancies discovered by staff suggest that the original cost study is not sufficiently reliable to support the higher plant values. Staff recommends that UPIS balances should be based on the MFRs for all accounts except 311.2 – Pumping Equipment, with adjustments described above. Accordingly, UPIS should be \$1,197,605. Corresponding adjustments should also be made to increase accumulated depreciation by \$2,856 and decrease depreciation expense by \$3,861. Additionally, property taxes should be decreased by \$5,006.

Issue 4: Should further adjustments be made to the Utility's rate base?

Recommendation: Yes. Land should be decreased by \$44,000 to reflect the removal of land from rate base. CIAC should be increased by \$83 associated with the meter installation charges collected by the Utility. Corresponding adjustments should be made to increase both accumulated amortization of CIAC and CIAC amortization expense by \$8. (Frank, Hill)

Staff Analysis: Staff has reviewed the test year rate base components along with other support documentation. As such, staff believes further adjustments are necessary to the Utility's rate base, as discussed below.

Land

Bocilla no longer operates the plant for which this land was used, and agrees with staff that the land should be removed from rate base. Accordingly, land should be decreased by \$44,000 to reflect the removal of land from rate base.

CIAC

In its MFRs, the Utility recorded \$458,848 of CIAC. Staff learned during a conference call with the Utility and OPC that the Utility had been incorrectly recording meter installation charges as revenues. Accordingly, CIAC should be increased by \$83 associated with a meter installation charge that was previously recorded in test year revenues by the Utility. Corresponding adjustments should be made to increase both accumulated amortization of CIAC and CIAC amortization expense by \$8.

Issue 5: Should any adjustments be made to the Utility's pro forma plant?

Recommendation: Yes. The appropriate amount of pro forma plant additions is \$79,050. This results in a decrease of \$5,300 from the Utility's requested amount. Therefore, UPIS should be increased by \$79,050. Corresponding adjustments should also be made to increase accumulated depreciation by \$2,866 and increase depreciation expense by \$2,866. Additionally, property taxes should be increased by \$1,271. (Hill, Frank)

Staff Analysis: The Utility requested 6 pro forma plant additions which were not part of the Utility's original filing but were provided in response to a staff data request. The total amount of the pro forma plant additions totaled \$84,349. The Utility provided invoices and justification for each of the plant additions. Based on invoices the total amount of the plant additions should be \$79,470.

The pro forma plant additions include \$7,970 for a boost station rebuild, \$13,809 for a boost station control package, \$11,340 for the 6" valve replacement, \$10,060 for looping dead end lines, \$14,721 for a chloramine feed system, and \$26,449 for a meter replacement program. The Utility has stated that all projects will be completed in 2017 with the exception of the meter replacement program which is a four-year program. Based on staff's review, the proposed additions will improve the reliability of Bocilla's system or improve the quality of the Utility's product. Staff's recommended adjustments, to the Utility's requested pro forma plant additions, are discussed below.

Chloramine Feed System

At the point of connection to EWD, the water purchased by Bocilla passes DEP requirements for chlorine or chloramine residuals. However, once the water reaches the point of use at some customer residences, periodic tests reveal that disinfection residuals are at times insufficient, and formation of nitrites and bio-films have impacted the quality of those customers' water. Bocilla has worked with the Florida Rural Water Association to design a chloramine feed system to address this problem while controlling engineering costs. The designs of this and related systems have changed since the MFRs were filed. The amount the Utility is requesting is now \$14,721 based on an updated bid by DMK Associates Inc. As discussed in Issue 3, KIU directly benefits from certain Bocilla assets and it is appropriate to allocate 36% of the value of those assets to KIU. The chloramine feed system benefits KIU in this way, and so \$5,300 (36% x \$14,721) should be removed.

Meter Replacement

Bocilla has requested \$26,449 to replace 240 meters over a four-year period, as many are near the end of their useful life and it is more economical to purchase the materials needed in bulk. Section 367.081(2)(a)2.a., F.S., states that "the commission shall consider utility property... to be constructed within a reasonable time in the future, not to exceed 24 months after the end of the historic base year... unless a longer period is approved by the Commission, to be used and useful in the public service, if such property is needed to serve current customers...." Because this pro forma plant item is needed to serve current customers, staff recommends that this property be allowed in rate base as used and useful.

Based on the recommended amount of pro forma plant, staff calculated the corresponding accumulated depreciation, depreciation expense, and property tax expense. Accumulated depreciation should be increased by \$2,866 and depreciation expense should be increased by \$2,866. Additionally, property taxes should be increased by \$1,271.

Issue 6: What is the used and useful (U&U) percentage of the Utility's water transmission and distribution system?

Recommendation: Bocilla's water transmission and distribution system should be considered 100 percent U&U. There appears to be no excessive unaccounted for water (EUW), therefore, staff recommends that no adjustment be made to operating expenses for purchased water. (Hill)

Staff Analysis: Bocilla's water transmission and distribution system 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 purchased water, as discussed below.

Excessive Unaccounted for Water

Rule 25-30.4325(1)(e), F.A.C., defines Excessive Unaccounted for Water (EUW) as "unaccounted for water in excess of 10 percent of the amount produced." Unaccounted for water is all water that is produced that is not sold, metered or accounted for in the records of the Utility. EUW is calculated by subtracting both the gallons used for other services, such as flushing, and the gallons sold to customers from the total gallons pumped for the test year. The Utility produced 30,892,000 gallons of water and sold 24,936,000 gallons of water to customers. The Utility recorded 720,000 gallons of water used for normal flushing and 3,650,000 gallons of water used for flushing to achieve DEP required chlorine residuals. The result $([30,892,000 - 24,936,000 - 720,000 - 3,650,000] / 30,892,000)$ for unaccounted for water is 5.13 percent, not in excess of 10 percent and so there is no EUW.

Distribution System Used & Useful

Bocilla purchases water from EWD through an interconnection. This interconnection is equivalent to a single well, and so it should be considered 100 percent U&U pursuant to Rule 25-30.4325(4), F.A.C.³ There are no large undeveloped parcels in Bocilla's territory; however, there are undeveloped lots interspersed throughout the distribution system. All lines are required to serve existing customers, and no portions of the distribution system could be isolated as not U&U; therefore, distribution system should be considered 100 percent U&U.

Conclusion

Bocilla's water transmission and distribution system should be considered 100 percent U&U. There appears to be no EUW, therefore, staff recommends that no adjustment be made to operating expenses for purchased water.

³Order No. PSC-14-0626-PAA-WU, issued October 29, 2014, in Docket No. 130265-WU, *In re: Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.*

Issue 7: What is the appropriate working capital allowance?

Recommendation: The appropriate working capital allowance is \$47,399. As such, the working capital allowance should be increased by \$1,933. (Frank)

Staff Analysis: Rule 25-30.433(2), F.A.C., requires Class B utilities to use the formula method, or one-eighth of O&M expense, to calculate the working capital allowance. The Utility has properly filed its allowance for working capital using the formula method. Staff has recommended adjustments to the Utility's O&M expense. As a result, staff recommends working capital of \$47,399. This reflects an increase of \$1,933 to the Utility's requested working capital allowance.

Issue 8: What is the appropriate rate base for the test year period ended December 31, 2015?

Recommendation: Consistent with staff's other recommended adjustments, the appropriate rate base for the test year ended December 31, 2015, is \$612,514. (Frank)

Staff Analysis: In its MFRs, the Utility requested a rate base of \$690,154. Based on staff's previously recommended adjustments, the appropriate rate base is \$612,514. The schedule for rate base is attached as Schedule No. 1-A, and the adjustments are shown on Schedule No. 1-B.

Issue 9: What is the appropriate return on equity?

Recommendation: Based on the Commission's leverage formula currently in effect, the appropriate return on equity (ROE) is 11.16 percent with an allowed range of plus or minus 100 basis points. (Frank)

Staff Analysis: The ROE included in the Utility's MFRs is 10.50 percent. Based on the current leverage formula in effect and an equity ratio of 17.70 percent, the appropriate ROE is 11.16 percent.⁴ Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

⁴Order 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 10: What is the appropriate weighted average cost of capital based on the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2015?

Recommendation: The appropriate weighted average cost of capital for the test year ended December 31, 2015, is 5.77 percent. (Frank)

Staff Analysis: In its filing, Bocilla requested an overall cost of capital of 5.97 percent. The Utility's capital structure consists of long-term debt, common equity, and deferred income taxes. In addition to the recommended cost rate for common equity, staff believes an adjustment is necessary to the cost rate for long-term debt. In its filing, Bocilla reflected a cost rate of 5.00 percent for long-term debt. However, based on the stated interest rate and issuance costs associated with this long-term debt, staff recommends that the appropriate cost rate for this long-term debt is 4.75 percent.

Based upon the proper components, amounts, and cost rates associated with the capital structure for the test year ended December 31, 2015, including the aforementioned adjustments, staff recommends a weighted average cost of capital of 5.77 percent. Schedule No. 2 attached to this recommendation details staff's recommended overall cost of capital.

Issue 11: What is the appropriate amount of test year revenues?

Recommendation: The appropriate test year revenues for Bocilla’s water system are \$398,153. (Johnson)

Staff Analysis: In its MFRs, Bocilla’s adjusted test year revenues were \$395,395. The water revenues include \$393,227 of annualized service revenues and \$2,168 of miscellaneous revenues. In review of the Utility’s adjusted test year billing data, staff found that the Utility used the incorrect billing analysis for each rate block. Based on the audit, staff made the adjustments to reflect the appropriate number of gallons used in each rate block. Therefore, the test year service revenues for Bocilla should be \$398,103, which results in an increase of \$4,876 (\$398,103 - \$393,227).

Staff also made adjustments to miscellaneous revenues for Bocilla. The Utility recorded monies received from service availability charges as miscellaneous revenues instead of CIAC. Therefore, staff decreased miscellaneous revenues by \$1,292 for an allowance for funds prudently invested (AFPI) charge and \$165 for a meter installation charge. In addition, the Utility included \$711 in its miscellaneous revenues for other charges. However, according to the staff’s audit, Bocilla only billed two initial connection charges of \$25. Therefore, staff reduced miscellaneous revenues by \$661 (\$711-\$50). For the reasons outlined above, the miscellaneous revenues for the Utility should be \$50 (\$2,168 - \$1,292 - \$165 - \$661). Based on the above, the appropriate test year revenues for Bocilla are \$398,153 (\$398,103 + \$50). Table 11-1 below, represents a summary of staff’s adjustments for test year revenues.

**Table 11-1
 Test Year Revenues**

	Water
Service Revenues	
Utility Recorded Service Revenues	\$393,227
Staff’s Adjustment	<u>\$4,876</u>
Total Service Revenues	\$398,103
Miscellaneous Revenues	
Utility Recorded Miscellaneous Revenues	\$2,168
Staff’s Miscellaneous Revenue Adjustments	<u>\$2,118</u>
Total Miscellaneous Revenues	\$50
Total Test Year Revenues	\$ 398,153

Issue 12: Should any adjustments be made to the Utility's pro forma expenses?

Recommendation: Yes. The Utility's requested pro forma expenses should be reduced by \$21,121 to a total of \$34,598. (Hill, Frank)

Staff Analysis: The Utility's requested pro forma expenses should be reduced by \$21,121 to a total of \$34,598.

Salaries & Wages – Employees

In its filing, the Utility requested an additional \$10,400 a year for its administrative employee to work one extra day a week. Through a response to a data request, Bocilla subsequently stated that this figure was in error and that only 400 additional hours at an hourly rate of \$25 is being requested. Given the amount of responsibilities for this position, staff believes the additional 400 hours for the part-time administrative employee is reasonable. However, as discussed more fully in Issue 13, staff recommends an hourly rate of \$20 instead of \$25. As such, staff recommends the appropriate pro forma salary amount should be \$8,000. Accordingly, staff recommends the requested pro forma salary adjustment be reduced by \$2,400 (\$10,400 - \$8,000).

Regulatory Commission Expense – Other

In its MFRs, Bocilla requested \$16,024 for the loss on the early abandonment of the water treatment plant. Subsequently, the Utility withdrew its request. Thus, staff recommends the removal of the \$16,024 amount.

Contractual Services – Accounting

In its filing, the Utility requested \$4,200 for Contractual Services – Accounting. In response to a data request, Bocilla stated that it presently does not utilize any monthly accounting services but is requesting \$350 per month be authorized as the Utility does not have the accounting expertise to perform the necessary monthly accruals to derive monthly financial statements. Bocilla further asserted that accruals are done at the end of the year and are being performed for free by one of the board of directors. The Utility asserts that it is not a reasonable business practice to have a director provide this free service and as such should be done monthly and be a paid function. Based on the above, staff recommends the requested \$4,200 for Contractual Services – Accounting is reasonable.

Insurance – Vehicle

In its MFRs, Bocilla requested \$2,600 for Insurance – Vehicle. In response to a data request, the Utility provided an estimate for insurance expense of \$2,018 and stated that the test year expense for Insurance – Vehicle should only be increased by \$274 to reflect the estimate for the insurance on the new vehicle. Accordingly, staff recommends that the requested pro forma amount be reduced by \$2,326 (\$2,600 - \$274).

Contractual Services - Engineering

The test year already includes 26.25 of the 50 hours requested for lead, copper, and chlorine control services, therefore, the requested \$6,750 should be reduced by \$3,510. The net adjustment to Contractual Services – Engineering should be a decrease of \$3,510.

Chloramine Feed System Chemicals, Operation & Maintenance

At the time it filed its MFRs, the Utility was undergoing an iterative design process for its chloramine feed system. It has now provided estimated chemical expenses of \$2,649, which should be approved as prudent to address the nitrification and bio-film problem discussed in Issue 5. Additionally, Operation & Maintenance should be increased by \$490 for repairs and maintenance associated with the feed system.

Fire Hydrant Maintenance and Exercise Program

The Utility requested \$2,325 for maintenance and \$3,720 to exercise its fire hydrants. Maintenance will consist of sand blasting and painting half of the 62 hydrants each year to extend their lives. Bocilla has stated that the harsh salt water environment has led to the need to replace fire hydrants before their estimated useful life and that performing this maintenance will extend the life of the existing hydrants and save replacement costs, which are between \$2,500 and \$3,000. Bocilla has also requested \$3,720 to exercise its fire hydrants twice yearly to ensure proper function. This is in response to a recent loss of life due to a fire in Bocilla's territory and increased concern about fire protection. Staff recommends that these programs are prudent and that the cost calculations submitted by Bocilla for these activities reflect the actual cost of components and labor not already included in salary expense.

Conclusion

Based on the above, staff recommends that the Utility's requested pro forma expenses be reduced by \$21,121 to a total of \$34,598.

Issue 13: Should any adjustments be made to the Utility's salaries and wages expense?

Recommendation: Yes. Salaries and wages expense should be reduced by \$18,860. A corresponding adjustment should be made to reduce payroll taxes by \$2,269. (Frank)

Staff Analysis: Based on its review of test year salaries and wages expense, staff recommends several adjustments to the Utility's proposed expense as summarized below.

Salaries & Wages – Employees

In its MFRs, the Utility reflected a total expense of \$104,866 for employee salaries and wages. The Utility has one full-time operator who is on call 24 hours a day, 365 days a year. Although the Utility no longer operates a water treatment plant, the licensed operator is required to maintain the new plant components of the chlorination system and the boost station. These tasks represent a significant level of complexity comparable to running a full water treatment plant. Further, the Utility has stated that since the interconnect has been in service for over a year, the number of hours required to maintain these components is the actual amount and is not an estimation. The operator's duties related to the distribution system, testing, repairs and regulatory compliance have not changed. Bocilla estimates that the operator spends about 20 percent of his time performing tasks for KIU. As such, the Utility only included 80 percent of the operator's salary totaling \$48,413. However, Bocilla subsequently provided an updated unallocated salary of \$60,000 for the operator. Using this updated salary amount, staff calculated 80 percent of the operator's salary to be \$48,000. This results in a reduction of \$413 (\$48,413 - \$48,000). Staff used the American Water Works Association's (AWWA) 2015 Compensation Survey (CS) to examine the reasonableness of the licensed operator's salary of \$48,000. Staff compared the requested salary to the weighted average salary of an operator II, the lowest level operator, in the AWWA CS. Staff discovered that \$48,000 falls below the weighted average salary for an operator II. As such, staff believes the full-time licensed operator's salary of \$48,000 is reasonable.

The Utility has a part-time field employee who makes \$20 an hour and was paid a total of \$25,470 for the test year. Staff believes the hourly rate is excessive for a part-time meter reader. Staff compared meter reading expense to what was approved for Little Gasparilla Water Utility, Inc., which is also a water reseller utility in the same county, with a comparable number of customers. In that Order, the Commission approved \$6,000 for meter reading expense, which comes to \$4.04 per meter read.⁵ Staff used the same methodology and calculated an annual meter reading expense of \$19,407 (\$4.04 x 400 customers x 12 months). Therefore, staff reduced the part-time field employee's annual salary expense by \$6,063.

The Utility has a part-time administrative employee currently working one day a week at \$25 an hour. The duties of this position include responsibility over the website, all initial complaints, payroll, workman's comp, online payments, regulatory compliance reporting, correspondence and all basic accounting functions. Staff used the AWWA 2015 CS to examine the reasonableness of the administrative employee's rate of \$25 an hour. Given the description of duties for this position, staff compared the requested hourly rate to the weighted average

⁵Order No. PSC-14-0626-PAA-WU, p. 13, issued October 29, 2014, in Docket No. 130265-WU, *In re: Application for staff-assisted rate case in Charlotte County by Little Gasparilla Water Utility, Inc.*

hourly rate of an accounting clerk in the AWWA CS and believes that \$25 an hour is excessive. Staff reduced the administrative employee's annual expense by \$2,015 to reflect a rate of \$20 an hour. This results in a total reduction of \$2,015.

The Utility further included \$2,550 in test year expense for Christmas bonuses. Staff believes the recommended adjustments above allow the Utility's employees to make fair and reasonable salaries and wages. As such, staff believes the \$2,550 for Christmas bonuses is excessive and should be removed.

In total, staff recommends reducing employee's salaries and wages expense by \$11,041 (\$413 + \$6,063 + \$2,015 + \$2,550).

Salaries & Wages – Officers

In its MFRs, the Utility reflected an expense of \$88,061 for officer's salaries and wages. This amount reflects a 10-percent reduction for non-utility activities. In response to staff data requests, the Utility stated that the officer's duties have increased since removing the water treatment plant from service. The Utility stated that this was not anticipated, but nitrification and bio-films generated from chloramine treated water has presented many additional problems that require continuous flushing. The Utility also provided an allocation of the officer's time spent on different job duties.

According to the Utility, 20 to 30 percent of the officer's time is spent on field related work and 70 to 80 percent of time is associated with administrative office duties. The Utility estimated the officer's total time per month tending to Utility operations is 160 to 200 hours. Overall, the officer is responsible for overseeing and protecting a publicly regulated water supply 24 hours a day, 365 days a year. Staff performed a comparative analysis to examine the reasonableness of the requested officer salary. Staff used the AWWA 2015 CS to examine the reasonableness of the officer's starting salary of \$88,061. Staff compared 30 percent of the officer's salary to a weighted average for a manger to account for the managerial field work and 70 percent to general manager superintendent to account for the overall oversight responsibility of the Utility. Accordingly, staff believes an officer's salary of \$84,643 is reasonable. This results in a \$3,418 reduction to officer's salaries. Further, staff believes the additional hours recommended above for the administrative employee, totaling \$8,000, will offset some of the duties and responsibilities of the officer. As such, staff believes the officer's salaries should be further reduced by \$8,000. Staff recommends a total reduction of \$11,418 (\$3,418 + \$8,000) to officer's salaries expense.

Included in officer's salaries and wages expense is \$10,800 reclassified to directors' fees from miscellaneous expenses. The Utility's board of directors consists of three directors who meet once a week for an hour. In its response to staff's third data request, the Utility stated that the major responsibilities of the board of directors include 1) supervise, retain, evaluate and compensate the Utility officers, 2) develop a strategic function in providing the vision, mission, and goals of the organization, 3) develop a governance system for the business, including overall strategies and financing, and 4) fulfill the fiduciary duty to protect the organization's assets and shareholders' investment. Staff notes that one of the three directors is also the officer/owner of the Utility. As such, staff believes the role of the directors to supervise, retain,

evaluate, and compensate the Utility officer is unreasonable. Further, staff believes it is excessive to have three directors for a Utility with only one full-time employee. As such, staff recommends reducing each director's fee by two-thirds. This results in a reduction of \$7,200 ($\$3,600 + \$3,600$). Staff's adjustments for director's fees result in a net increase of \$3,600 ($\$10,800 - \$7,200$).

Based on the adjustments above, staff recommends reducing officer's salaries expense by \$7,818 ($\$11,418 - \$3,600$).

Conclusion

Based on the above, staff recommends that the Utility's salaries and wages expense be reduced by \$18,660. A corresponding adjustment should be made to reduce payroll taxes by \$2,269.

Issue 14: Should further adjustments be made to the Utility's O&M expense?

Recommendation: Yes. O&M expense should be further decreased by \$18,738. (Frank)

Staff Analysis: Based on its review of test year O&M expense, staff recommends several adjustments to the Utility's O&M expense as summarized below.

Employee Pensions & Benefits

In its MFRs, the Utility reflected an expense of \$7,548 for employee pensions and benefits expense in the test year. As discussed in Issue 3, staff made an adjustment to account for non-utility activities. In its response to staff's second data request, the Utility stated it has no objection to this adjustment. This results in a reduction of \$1,510 ($\$7,548 \times 20\%$).

Purchased Power

In its filing, Bocilla reflected an expense of \$4,549 for purchased power expense in the test year. Staff removed \$1,471 from test year expenses related to charges for the abandoned water treatment plant. Staff removed \$175 related to an out of test year bill. Finally, staff removed \$365 for a deposit which was reimbursed to the Utility. In its response to staff's second data request, the Utility stated it has no objection to the above adjustments to purchased power. In total, staff recommends a reduction of \$2,011 ($\$1,471 + \$175 + \365).

Contractual Services - Engineering

Staff, OPC, and the Utility agree that an expense of \$1,012.50 for well plugging is not recurring in nature and should be removed. The net adjustment to Contractual Services – Engineering should be a decrease of \$1,012.50.

Contractual Services – Legal

In its MFRs, the Utility reflected an expense of \$654 for Contractual Services - Legal expense in the test year. A \$360 bill for legal services was also included as part of the Utility's rate case expense. As such, staff removed \$360 from Contractual Services – Legal as duplicative costs already reflected in rate case expense.

Transportation Expenses

In its filing, the Utility reflected an expense of \$5,454 for transportation expense in the test year. Staff reduced transportation expense by \$94 related to an out-of-period fuel purchase. Also, staff notes that the Utility is located on a barrier island which requires a barge fee in order to be transported from the mainland to the island. Upon staff's request, the Utility provided a breakdown of the number of trips to the island per the required barge fees. Staff reviewed the number of trips and believes this expense is reasonable. Staff increased transportation expenses by \$13,320 to reclassify barge fees from miscellaneous expense. Further, staff removed \$1,080 for an out-of-period barge fee.

The expenses related to the Utility golf cart should be removed as unsupported and not prudent given the new utility truck. This represents a reduction in vehicle maintenance of \$619.

Based on the above, staff recommends a total increase of \$11,527 (-\$94+ \$13,320 - \$1,080 - \$619).

Insurance – Workman’s Comp

In its MFRs, the Utility reflected an expense of \$4,383 for workman’s comp expense in the test year. As discussed in Issue 3, staff made an adjustment to account for non-utility activities. In its response to staff’s second data request, the Utility stated they agree to a 10 percent allocation to non-utility activities. However, staff believes the allocation for non-utility activities should be consistent at 20 percent. Therefore, staff reduced workman’s comp by \$877 ($\$4,383 \times 20\%$).

Advertising Expense

In its MFRs, the Utility recorded \$375 for advertising expense in the test year. In its response to staff’s second data request, the Utility agreed with the removal of advertising expenses. As such, staff removed \$375 for advertising expense.

Miscellaneous Expenses

In its MFRs, the Utility recorded \$46,378 for miscellaneous expense in the test year. Staff reduced miscellaneous expense by \$13,320 to reclassify barge fees to transportation expense. Staff also reduced miscellaneous expense by \$10,800 to reclassify directors’ fees to officer’s salaries and wages expense. This results in a total reduction of \$24,120 ($\$13,320 + \$10,800$).

Conclusion

Based on the above, staff recommends that O&M expense be further decreased by \$18,738.

Issue 15: What is the appropriate amount of rate case expense?

Recommendation: The appropriate amount of rate case expense is \$82,929. This expense should be recovered over four years for an annual expense of \$20,732. Therefore, annual rate case expense should be decreased by \$368. (Frank)

Staff Analysis: In its MFRs, Bocilla requested \$84,400 for current rate case expense. Staff requested an update of the actual rate case expense incurred, with supporting documentation, as well as the estimated amount to complete the case. On December 16, 2016, the Utility submitted its last revised estimate of rate case expense, through completion of the PAA process, which totaled \$98,788. See Table 15-1 below.

**Table 15-1
 Bocilla's Initial and Revised Rate Case Expense Request**

	MFR B-10 Estimated	Actual	Additional Estimated	Revised Total
Friedman & Friedman, PA	\$38,000	\$22,385	\$4,855	\$27,240
Englewood Management Group, LLC	30,000	47,930	8,000	55,930
DMK Engineering	8,100	3,375	0	3,375
M&R Consultants	0	2,100	0	2,100
Giffels-Webster, Inc.	0	6,905	0	6,905
Filing Fee	4,000	2,000	0	2,000
Bocilla In-house	1,600	1,238	0	1,238
Customer Notices	1,200	0	0	0
Travel	<u>1,500</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>\$84,400</u>	<u>\$85,933</u>	<u>\$12,855</u>	<u>\$98,788</u>

Source: MFR Schedule B-10 and Utility responses to staff data requests

Pursuant to Section 367.081(7), F.S., the Commission shall determine the reasonableness of rate case expense and shall disallow all rate case expense determined to be unreasonable. Staff has examined the requested actual expenses, supporting documentation, and estimated expenses as listed above for the current rate case. Based on its review, staff believes the following adjustments to Bocilla's rate case expense estimate are appropriate.

Friedman & Friedman, P.A. (F&F)

In its MFRs, the Utility included \$38,000 in legal fees to complete the rate case. The Utility provided documentation detailing this expense through December 9, 2016. The actual fees and costs totaled \$22,385 with an estimated \$4,855 to complete the rate case, totaling \$27,240.

F&F's actual expenses included the \$2,000 filing fee. However, the Utility also included \$2,000 in its MFR Schedule B-10, under "Public Service Commission – Filing Fee." Staff has

left the filing fee under the filing fee line item and has removed the entry from legal fees to avoid double recovery of this fee.

According to invoices, the law firm of F&F billed the Utility \$504 related to the correction of MFR deficiencies. The Commission has previously disallowed rate case expense associated with correcting MFR deficiencies because of duplicate filing costs.⁶ Consequently, staff recommends an adjustment to reduce F&F's actual legal fees by \$504.

F&F's estimate to complete the rate case includes fees for 12 hours at \$360/hr. and additional costs for photocopies and attending the Agenda Conference, totaling \$535. Staff notes that F&F will be attending Agenda for another docket in addition to this docket. As such, staff reduced the estimate for costs to attend Agenda by \$263 (\$525/2) which is half of the estimated costs to avoid double recovery of travel expenses. Accordingly, staff recommends that legal fees from F&F should be reduced by \$2,767 (\$2,000 + \$504 + \$263).

Englewood Management Group, LLC (EMG)

In its MFRs, the Utility included \$30,000 in accounting fees to complete the rate case. The Utility provided documentation detailing this expense through December 14, 2016. The actual fees and costs totaled \$47,930 with an estimated \$8,000 to complete the rate case, totaling \$55,930. Staff reviewed the invoices and found that \$1,806 related to work to correct deficiencies. As mentioned above, it is Commission practice to disallow rate expense associated with correcting deficiencies. Therefore, staff recommends an adjustment to reduce EMG's actual accounting fees by \$1,806. Also included in the invoices was \$447 for an airline ticket. Staff believes this cost is inappropriate since the consultant is on the board of directors and lives near the Utility.

EMG's estimate to complete the rate case includes fees totaling \$7,200 (48 hours at \$150/hr.) and additional \$800 in costs for photocopies and attending the Agenda Conference. The estimate to complete included 26 hours for reviewing staff's recommendation, consulting with client, reviewing PAA Order, and miscellaneous items that may arise. Staff compared this estimate to complete for accounting services with a larger Class A Utility and notes that the Commission previously approved 9.5 hours to review staff recommendations, the Commission's PAA Order, and consult with client.⁷ As such, staff believes 9.5 hours is an ample amount of time to review our staff's recommendation, the Commission's PAA Order, and consult with their client in the instant docket. Accordingly, staff reduced the estimated time for recommendation review by 16.5 hours resulting in a reduction of \$2,475 (16.5hrs. x \$150). Second, using F&F's estimate for traveling to the Agenda, staff reduced EMG's estimate for travel by \$275 (\$800 - \$525).

⁶Order Nos. PSC-05-0624-PAA-WS, issued June 7, 2005, in Docket No. 040450-WS, *In re: Application for rate increase in Martin County by Indiantown Company, Inc.*; and PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, *In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.*

⁷Order No. PSC-15-0233-PAA-WS, p. 32, issued June 3, 2015, in Docket No. 140060-WS, *In re: Application for increase in wastewater rates case in Seminole County by Sanlando Utilities Corporation.*

In total, staff recommends that accounting fees for EMG should be reduced by \$5,003 (\$1,806 + \$447 + \$2,475 + \$275).

DMK Engineering

The Utility provided one invoice related to preparing MFRs, responding to data requests, and audit facilitation totaling \$3,375. The Utility did not provide an additional estimate to complete the rate case for DMK Engineering. As such, staff believes the costs are reasonable, and as such staff recommends no adjustment for the \$3,375 amount.

M&R Consultants

In its MFRs, the Utility did not include any estimated rate case expense associated with accounting services provided by M&R Consultants. However, the Utility subsequently provided an invoice for fees related to the original cost study totaling \$2,100. In its response to staff's second data request, the Utility stated that the costs of obtaining the original cost study will not be submitted as costs of the rate case. Therefore, staff recommends reducing this expense by \$2,100.

Giffels-Webster, Inc.

In its MFRs, the Utility did not include any estimated rate case expense associated with accounting services provided by Giffels-Webster, Inc. However, the Utility subsequently provided two invoices for fees related to the original cost study totaling \$6,905. As mentioned above, the Utility stated that the costs of obtaining the original cost study will not be submitted as costs of the rate case. Therefore, staff recommends reducing this expense by \$6,905.

Filing Fee

The Utility included \$4,000 in its MFR Schedule B-10 for the filing fee. However, the filing fee for this rate case was \$2,000. As such, staff reduced the filing fee expense by \$2,000.

Customer Notices

In its MFRs, the Utility included estimated costs of \$1,200 for printing and shipping. The Utility is responsible for sending out three notices: the initial notice, customer meeting notice, and notice of the final rate increase. The Commission has historically approved recovery of noticing and postage, despite the lack of support documentation, based on a standard methodology to estimate the total expense using the number of customers and the estimated per unit cost of envelopes, copies, and postage.⁸ As such, staff estimated the postage cost for the notices to be approximately \$564 (400 customers x \$0.47 x 3 notices). Staff estimates envelope costs to be \$72 (400 customers x \$0.06 per envelope x 3 notices) and copying costs to be \$280 (400 customers x \$0.10 per copy x 7 pages).⁹ Based on these components, the total cost for customer notices and postage is \$916 (\$564 + \$72 + \$280). Accordingly, staff recommends rate case expense be decreased by \$284 (\$1,200 - \$916).

⁸Order No. PSC-14-0025-PAA-WS issued January 10, 2014, in Docket No. 120209-WS, *In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida.*

⁹The initial notice sent by the Utility was three pages, and the customer notice was one page. Staff anticipates that the final notice will be approximately three pages.

Travel

In its MFRs, the Utility included estimated \$1,500 for travel costs. However, the Utility subsequently provided documentation detailing estimated travel costs for F&F and EMG’s rate case expense. Staff addresses travel costs for these consultants above. As such, staff reduced travel costs by \$1,500 to avoid double recovery.

Conclusion

Based upon the adjustments discussed above, staff recommends that Bocilla’s revised rate case expense of \$98,788 be decreased by \$17,859 to reflect staff’s adjustments, for a total of \$82,929. A breakdown of staff’s recommended rate case expense is reflected in Table 15-2 below.

**Table 15-2
 Staff Recommended Rate Case Expense**

Description	MFR Estimated	Utility Revised Act.& Est.	Staff Adjustment	Recom. Total
Legal Fees	\$38,000	\$27,240	(\$2,767)	\$24,474
Accounting Consultant Fees	30,000	55,930	(5,003)	50,702
Engineering Consultant Fees	8,100	12,380	(9,005)	3,375
Filing Fee	4,000	2,000	(2,000)	2,000
Bocilla In-house	1,600	1,238	0	1,238
Customer Notices	1,200	0	916	916
Travel	<u>\$1,500</u>	<u>0</u>	<u>0</u>	<u>0</u>
Total	<u>\$84,400</u>	<u>\$98,788</u>	<u>(\$17,859)</u>	<u>\$82,929</u>

Source: MFR Schedule B-10 and responses to staff data requests

In its MFRs, the Utility requested total rate case expense of \$84,400. When amortized over four years, this represents an annual expense of \$21,100. The recommended total rate case expense of \$82,929 should be amortized over four years, pursuant to Section 367.0816¹⁰, F.S. This represents an annual expense of \$20,732. Based on the above, staff recommends that annual rate case expense be decreased by \$368 (\$20,732 - \$21,100) compared to the original request in the MFRs.

¹⁰ Section 367.0816, F.S., was repealed pursuant to Ch. 2016-226, Laws of Florida, effective July 1, 2016. However, the Statute was in effect when Bocilla’s application was filed, and therefore shall remain applicable in this case.

Issue 16: What is the appropriate revenue requirement for the test year ended December 31, 2015?

Recommendation: Staff recommends the following revenue requirement be approved.

Test Year Revenue	\$ Increase	Revenue Requirement	% Increase
\$398,153	\$75,708	\$473,861	19.01%

(Frank)

Staff Analysis: In its filing, the Utility requested a revenue requirement to generate annual revenue of \$547,770. This requested revenue requirement represents a revenue increase of \$152,375, or approximately 38.54 percent. Consistent with recommendations concerning rate base, cost of capital, and operating income issues, staff recommends the appropriate revenue requirement should be \$473,861 for water. This represents an increase in revenues of \$75,708 (or 19.01 percent) for water. This increase will allow the Utility the opportunity to recover its operating expenses and earn a 5.77 percent return on its investment in water rate base. The schedule for operating income is attached as Schedule No. 3-A, and the adjustments are shown on Schedule No. 3-B.

Issue 17: What are the appropriate rate structures and rates for Bocilla's water system?

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

Staff Analysis: Bocilla is located on a barrier island in Charlotte County and provides water service to approximately 400 residential customers. Typically, staff evaluates the seasonality of a utility's customers based on the percentage of bills at zero gallons, which is 11 percent. However, for Bocilla, a portion of the customers are in residence periodically throughout each month rather than a few months out of the year. Therefore, staff believes it is appropriate to evaluate the seasonality based on the percentage of bills at the 1,000 gallon level, which is 30 percent. As a result, it appears that the customer base is somewhat seasonal. The average residential water demand is 5,125 gallons per month. The average water demand excluding zero gallon bills is 5,738 gallons per month. The Utility's current water system rate structure for residential and general service customers consists of a base facility charge (BFC) and a three-tier inclining block rate structure. The rate blocks are: (1) 0-6,000 gallons; (2) 6,001-12,000 gallons; and (3) all usage in excess of 12,000 gallons per month.

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

The Utility's proposed rate structure includes a revenue allocation to the BFC of 56.11 percent. Typically, unless the Utility's customer base is highly seasonal, the Commission allocates no greater than 40 percent of the water revenue to the BFC. Staff believes a BFC allocation of 48 percent will send the appropriate conservation pricing signals to target discretionary usage and also provide revenue stability to address the moderate amount of seasonal usage in Bocilla's customer base.

The average person per household served by the Utility is two. Therefore, based on the number of people per household, 50 gallons per day per person, and the number of days per month, the non-discretionary usage threshold should be 3,000 gallons per month instead of 6,000 gallons. Staff recommends a BFC and a three-tier gallonage charge rate structure, which includes a gallonage charge for non-discretionary usage for residential water customers. The rate tiers should be: (1) 0-3,000 gallons (non-discretionary); (2) 3,001-12,000 gallons; and (3) all usage in excess of 12,000 gallons per month. Approximately 23 percent of the customer demand exceeds 12,000 gallons per month. Further, based on the recommended revenue increase of

approximately 19 percent as well as the demographics of Bocilla’s customer base, the reduction in residential demand is expected to be insignificant. Staff recommends a BFC and uniform gallonage charge rate structure for general service water customers.

Table 17-1 below, contains staff’s recommended rate structure and rates as well as alternative rate structures, which include varying BFC allocations and rate blocks. Alternative I results in a more even distribution of the rate increase to all customers regardless of demand, but does not send the appropriate pricing signals to target discretionary usage. Alternative II maintains the existing tiers (0 – 6,000, 6,001-12,000, 12,000+) but provides a greater increase to non-discretionary demand than the staff recommended rate structure. The staff recommended rate structure mitigates the rate impact for non-discretionary demand while sending a significant pricing signal for demand in excess of 12,000 gallons per month.

**Table 17-1
 Staff’s Recommended and Alternative Water Rate Structures and Rates**

	RATES AT TIME OF FILING	STAFF RECOMMENDED RATES 48% BFC	ALTERNATIVE I 56% BFC	ALTERNATIVE II 49% BFC
Residential				
5/8” x 3/4” Meter Size	\$46.24	\$46.82	\$53.90	\$47.16
Charge per 1,000 gallons				
0-6,000 gallons	\$4.62			\$7.46
6,001 – 12,000 gallons	\$7.76			\$9.32
Over 12,000 gallons	\$12.32			\$18.65
0 – 3,000 gallons		\$6.83	\$6.12	
3,001 – 12,000 gallons		\$8.53	\$7.66	
Over 12,000 gallons		\$17.07	\$15.31	
3,000 Gallons	\$60.10	\$67.31	\$72.26	\$69.54
6,000 Gallons	\$73.96	\$92.90	\$95.24	\$91.92
12,000 Gallons	\$120.52	\$144.08	\$141.20	\$147.84

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

Issue 18: Should Bocilla's request to implement a late payment charge be approved?

Recommendation: Yes. Bocilla's request to implement a late payment charge of \$7.12 should be approved. Bocilla should be required to file a proposed customer notice and tariff to reflect the Commission-approved charge. The approved charge should be effective for services rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Johnson)

Staff Analysis: The Utility is requesting a \$7.12 late payment charge to recover the cost of supplies and labor associated with processing late payment notices. The Utility's request for a late payment charge was accompanied by its reason for requesting the charge, as well as the cost justification required by Section 367.091(6), F.S. The Utility indicated that four late payment notices are processed per hour. The hourly salary for the employee that processes late payment notices is \$24.50 per hour. Based on the labor and four late payment notices per hour, the labor cost per notice is \$6.15. The cost basis for the Utility's requested and staff's recommended late payment charge, including labor, is shown below, in Table 18-1.

Table 18-1
Late Payment Cost Justification

	Staff's Recommended
Labor	\$6.15
Printing	0.50
Postage	<u>0.47</u>
Total	\$7.12

Source: Utility's cost justification and staff's calculation

Since the late 1990s, the Commission has approved late payment charges ranging from \$2.00 to \$7.00.¹¹ Staff's recommended late payment charge is consistent with previously approved late payment charges. The purpose of this charge is not only to provide an incentive for customers to make timely payment, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing delinquent accounts solely upon those who are the cost causers.

¹¹Order Nos. PSC-14-0335-PAA-WS, in Docket No. 130243-WS, issued June 30, 2014, *In re: Application for staff-assisted rate case in Highlands County by Lake Placid Utilities Inc.*; PSC-14-0105-TRF-WS, in Docket No. 130288-WS, issued February 20, 2014, *In re: Request for approval of late payment charge in Brevard County by Aquarina Utilities, Inc.*; PSC-13-0177-PAA-WU, in Docket No. 130052-WU, issued April 29, 2013, *In re: Application for grandfather certificate to operate water utility in Charlotte County by Little Gasparilla Water Utility, Inc.*; PSC-10-0257-TRF-WU, in Docket No. 090429-WU, issued April 26, 2010, *In re: Request for approval of imposition of miscellaneous service charges, delinquent payment charge and meter tampering charge in Lake County, by Pine Harbour Water Utilities, LLC.*; and PSC-11-0204-TRF-SU, in Docket No. 100413-SU, issued April 25, 2011, *In re: Request for approval of tariff amendment to include a late fee of \$14.00 in Polk County by West Lakeland Wastewater.*

Based on the above, Bocilla's request to implement a late payment charge of \$7.12 should be approved. Bocilla should be required to file a proposed customer notice and tariff to reflect the Commission-approved charge. The approved charge should be effective for services rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 19: Should the Utility's approved service availability policy and charges be revised?

Recommendation: Yes. Bocilla's existing wastewater system capacity charge should be discontinued. Staff recommends a main extension charge of \$1,279 per ERC and a new meter installation charge of \$365. The Utility's existing AFPI charge should be collected from the remaining 315 ERCs the system was designed to serve. The approved service availability charges may only be collected from new connections to the Utility's water system. The approved service availability charges should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475, F.A.C. (Johnson)

Staff Analysis: Bocilla's existing service availability charges shown on Table 19-1 were originally approved by Charlotte County and were subsequently grandfathered in when Charlotte County transferred jurisdiction to the Commission in 2013. The charges include a meter installation charge of \$165 and a system capacity charge of \$3000 per ERC.

A system capacity charge is a single service availability charge that includes the cost of both plant and lines. For a utility that receives donated lines from a developer, an individual customer connecting to those lines should only be responsible for a service availability charge that reflects plant costs. Therefore, separate charges are typically developed to reflect the customer's share of plant costs (plant capacity charges) and the cost of lines in lieu of donated lines (main extension charges). 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 and sewage collection systems.

Main Extension Charge

Based on the original cost study, the cost of the water distribution system is \$914,370 and the lines have a design capacity of 715 ERCs. Therefore, staff recommends that the Utility's service availability charges be revised to include a main extension charge of \$1,279 per ERC (\$914,370/715). Staff's recommended main extension charge is consistent with the guidelines in Rule 25-30.580, F.A.C., which require that, at a minimum, the cost of the Utility's lines should be contributed.

Staff reviewed the contribution level of Bocilla's water system and found that the current contribution level is 33 percent, which is less than the 75 percent maximum guideline provided in Rule 25-30.580, F.A.C. The minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by the water distribution system. Based on staff's review, the recommended main extension charge would allow the Utility to be approximately 75 percent contributed at full capacity. As a result, staff recommends that Bocilla's system capacity charge be discontinued.

Meter Installation Charge

A meter installation charge is designed to recover the cost of the meter and the installation. The Utility's current meter installation charges are \$165 for the 5/8" x 3/4" meter and actual cost for all other meter sizes. Based on the cost justification provided for the meter replacement program, staff believes it is appropriate to update the Utility's existing meter installation charges. Staff believes the requested meter installation charge of \$365 is reasonable.

AFPI Charge

Bocilla also has an AFPI charge that was originally approved by Charlotte County. An AFPI charge is designed to allow the Utility to recover, from new connections, a portion of the depreciation, property taxes, and return on investment associated with non-used and useful plant. The costs are typically accumulated on a monthly basis for up to five years. A new customer connecting to the system today would pay the maximum charge of \$1,292.31 per ERC. Staff recommends that the Utility be authorized to continue collecting an AFPI charge of 1,292.31 per ERC from the remaining 315 ERCs the system was designed to serve.

Based on the above, Bocilla's existing wastewater system capacity charge should be discontinued. Staff recommends a main extension charge of \$1,279 per ERC and a new meter installation charge of \$365. The Utility's existing AFPI charge should be collected from the remaining 315 ERCs the system was designed to serve. The approved service availability charges may only be collected from new connections to the Utility's water system. The approved service availability charges should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475, F.A.C.

**Table 19-1
Current and Recommended Service Availability Charges**

	Current Charge	Recommended Charge
Main Extension Charge	\$0	\$1,279
Plant Capacity Charge	\$0	\$0
System Capacity Charge	\$3,000	\$0
Meter Installation Charge	\$165	\$365
AFPI Charge	\$1,292.31	\$1,292.31

Issue 20: What are the appropriate initial customer deposits for Bocilla?

Recommendation: The appropriate water initial customer deposit should be \$169 for the residential 5/8 inch x 3/4 inch meter size. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for water service. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C. (Johnson)

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 a utility and, ultimately, the general body of ratepayers. Historically, the Commission has set initial customer deposits equal to two times the average estimated bill. Currently, Bocilla does not have initial customer deposits in place. Based on the average water demand, the appropriate initial customer deposit should be \$169 to reflect an average residential customer bill for two months.

Based on the above, staff recommends that the appropriate water initial customer deposit should be \$169 for the residential 5/8 inch x 3/4 inch meter size. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for water service. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C.

Issue 21: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S.¹²?

Recommendation: The water rates should be reduced as shown on Schedule No. 4 to remove rate case expense grossed-up for Regulatory Assessment Fees (RAFs) and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S., Bocilla 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. (Johnson, Frank)

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. This results in a reduction of \$21,709.

The water rates should be reduced as shown on Schedule No. 4 to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. Bocilla 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.

¹² Section 367.0816, F.S., was repealed pursuant to Ch. 2016-226, Laws of Florida, effective July 1, 2016. However, the Statute was in effect when Bocilla's application was filed, and therefore shall remain applicable in this case.

Issue 22: In determining whether any portion of the interim water revenue increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

Recommendation: The appropriate refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense and other items not in effect during the interim period. The revised revenue requirements for the interim collection period should be compared to the amount of interim revenues granted. This results in a refund of 7.81 percent for water. The refund should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. Further, the letter of credit should be released upon staff's verification that the required refunds have been made. (Frank)

Staff Analysis: The Commission authorized Bocilla to collect interim water rates, subject to refund, pursuant to Section 367.082, F.S. The approved interim revenue requirement for water of \$464,122 represented an increase of \$65,159 or 16.33 percent.

According to Section 367.082(4), F.S., any refund should be calculated to reduce the rate of return of the Utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in the rate case test period that do not relate to the period that interim rates are in effect should be removed. Rate case expense is an example of an adjustment which is recovered only after final rates are established.

In this proceeding, the test period for establishment of interim and final rates is the 12-month period ended December 31, 2015. Bocilla's approved interim rates did not include any provisions for pro forma or projected operating expenses or plant. The interim increase was designed to allow recovery of actual interest expense, and the lower limit of the last authorized range for equity earnings.

To establish the proper refund amount, staff calculated adjusted interim period revenue requirements utilizing the same data used to establish final rates. Rate case expense was excluded because this item is prospective in nature and did not occur during the interim collection period. Using the principles discussed above, staff calculated an adjusted interim revenue requirement of \$425,918 for water. The adjusted water interim revenue requirement of \$425,918 is lower than the interim revenue requirement of \$464,122, resulting in a refund of 7.81 percent.

The refund should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as Contributions in Aid of Construction (CIAC) pursuant to Rule 25-30.360(8), F.A.C. Further, the letter of credit should be released upon staff's verification that the required refunds have been made.

Issue 23: Should the Utility be required to notify, 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. The Utility should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. Bocilla 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. (Frank)

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. Bocilla 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 24: Should this docket be closed?

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

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

Bocilla Utilities, Inc.		Schedule No. 1-A			
Schedule of Water Rate Base		Docket No. 160065-WU			
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year
1 Plant in Service	\$1,230,651	(\$47,895)	\$1,182,756	\$14,849	\$1,197,605
2 Land and Land Rights	44,000	0	44,000	(44,000)	0
3 Non-used and Useful Components	0	0	0	0	0
4 Construction Work in Progress	42	0	42	0	42
5 Accumulated Depreciation	(358,888)	9,780	(349,108)	(5,722)	(354,830)
6 CIAC	(460,348)	1,500	(458,848)	(83)	(458,931)
7 Amortization of CIAC	232,960	(7,114)	225,846	(44,617)	181,229
8 Working Capital Allowance	<u>0</u>	<u>45,466</u>	<u>45,466</u>	<u>1,933</u>	<u>47,399</u>
9 Rate Base	<u>\$688,417</u>	<u>\$1,737</u>	<u>\$690,154</u>	<u>(\$77,640)</u>	<u>\$612,514</u>

Bocilla Utilities, Inc.		Schedule No. 1-B
Adjustments to Rate Base		Docket No. 160065-WU
Explanation	Water	
<u>Plant In Service</u>		
1	Reflect appropriate test year plant. (Issue 3)	(\$64,201)
2	Reflect appropriate Pro Forma Plant. (Issue 5)	79,050
	Total	<u>\$14,849</u>
<u>Land</u>		
	To remove non-used and useful land. (Issue 4)	<u>(\$44,000)</u>
<u>Accumulated Depreciation</u>		
1	Reflect appropriate test year accum. depr. (Issue 3)	(\$2,856)
2	Reflect appropriate Pro Forma accumulated depr. (Issue 5)	<u>(2,866)</u>
	Total	<u>(\$5,722)</u>
<u>CIAC</u>		
	Retirements related to meter hook-up charges. (Issue 5)	<u>(\$83)</u>
<u>Accumulated Amortization of CIAC</u>		
1	Agreed upon Audit Finding 6. (Issue 2)	(\$44,625)
2	Reflect meter installation via hook up charges. (Issue 5)	8
	Total	<u>(\$44,617)</u>
<u>Working Capital</u>		
	Reflect the appropriate working capital amount. (Issue 7)	<u>\$1,933</u>

Bocilla Utilities, Inc.						Schedule No. 2		
Capital Structure-Simple Average						Docket No. 160065-WU		
Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost
Per Utility								
1 Long-term Debt	\$1,005,226	\$0	\$1,005,226	\$0	\$1,005,226	82.30%	5.00%	4.12%
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	216,151	0	216,151	0	216,151	17.70%	10.50%	1.86%
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 Total Capital	<u>\$1,233,499</u>	<u>\$0</u>	<u>\$1,233,499</u>	<u>\$0</u>	<u>\$1,233,499</u>	<u>100.00%</u>		<u>5.97%</u>
Per Staff								
8 Long-term Debt	\$1,005,226	\$0	\$1,005,226	(\$511,087)	\$494,139	80.67%	4.75%	3.83%
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	216,151	0	216,151	(109,898)	106,253	17.35%	11.16%	1.94%
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>0</u>	<u>12,122</u>	<u>1.98%</u>	<u>0.00%</u>	<u>0.00%</u>
14 Total Capital	<u>\$1,233,499</u>	<u>\$0</u>	<u>\$1,233,499</u>	<u>(\$620,985)</u>	<u>\$612,514</u>	<u>100.00%</u>		<u>5.77%</u>
						<u>LOW</u>	<u>HIGH</u>	
RETURN ON EQUITY						<u>10.16%</u>	<u>12.16%</u>	
OVERALL RATE OF RETURN						<u>5.59%</u>	<u>5.94%</u>	

Bocilla Utilities, Inc.						Schedule No. 3-A	
Statement of Water Operations						Docket No. 160065-WU	
Description	Test Year Per Utility	Utility Adjustments	Adjusted Test Year Per Utility	Staff Adjustments	Staff Adjusted Test Year	Revenue Increase	Revenue Requirement
1 Operating Revenues:	<u>\$391,017</u>	<u>\$156,753</u>	<u>\$547,770</u>	<u>(\$149,617)</u>	<u>\$398,153</u>	<u>\$75,708</u> 19.01%	<u>\$473,861</u>
Operating Expenses							
2 Operation & Maintenance	363,729	76,819	440,548	(61,358)	379,190		379,190
3 Depreciation (net of CIAC Amort.)	14,743	0	14,743	2,535	17,278		17,278
4 Taxes Other Than Income	44,538	6,857	51,395	(12,736)	38,659	3,407	42,065
5 Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
6 Total Operating Expense	<u>423,010</u>	<u>83,676</u>	<u>506,686</u>	<u>(71,559)</u>	<u>435,127</u>	<u>3,407</u>	<u>438,534</u>
7 Operating Income	<u>(\$31,993)</u>	<u>\$73,077</u>	<u>\$41,084</u>	<u>(\$78,058)</u>	<u>(\$36,974)</u>	<u>\$72,301</u>	<u>\$35,327</u>
8 Rate Base	<u>\$688,417</u>		<u>\$690,154</u>		<u>\$612,514</u>		<u>\$612,514</u>
9 Rate of Return	<u>-4.65%</u>		<u>5.95%</u>		<u>-6.04%</u>		<u>5.77%</u>

Bocilla Utilities, Inc.		Schedule 3-B
Adjustment to Operating Income		Docket No. 160065-WU
Explanation	Water	
<u>Operating Revenues</u>		
1	Remove requested final revenue increase.	(\$152,375)
2	Reflect appropriate amount of annualized revenues. (Issue 11)	<u>2,758</u>
	Total	<u>(\$149,617)</u>
<u>Operation and Maintenance Expense</u>		
1	Agreed upon Audit Finding 8. (Issue 2)	(\$2,271)
2	Reflect appropriate pro forma expenses. (Issue 12)	(21,121)
3	Reflect appropriate salaries & wages expense. (Issue 13)	(18,860)
4	Reflect appropriate test year expense adjustments. (Issue 14)	(18,738)
5	Reflect appropriate amount of rate case expense. (Issue 15)	<u>(368)</u>
	Total	<u>(\$61,358)</u>
<u>Depreciation Expense - Net</u>		
1	Agreed upon Audit Finding 6. (Issue 2)	\$3,538
2	Reflect appropriate test year depr. Expense. (Issue 3)	(3,861)
3	Reflect meter installation via hook up charges. (Issue 4)	(8)
4	Reflect appropriate Pro Forma depreciation exp. (Issue 5)	<u>2,866</u>
	Total	<u>\$2,535</u>
<u>Taxes Other Than Income</u>		
1	RAFs on revenue adjustments above.	(\$6,733)
2	Reflect appropriate test year property taxes. (Issue 3)	(5,006)
3	Reflect appropriate Pro Forma property taxes. (Issue 5)	1,271
4	Reflect appropriate payroll tax expense. (Issue 13)	<u>(2,269)</u>
	Total	<u>(\$12,736)</u>

Bocilla Utilities, Inc.					SCHEDULE NO. 4
TEST YEAR ENDED December 31, 2015					DOCKET NO. 160065-WU
MONTHLY WATER RATES					
	RATES AT TIME OF FILING	COMMISSION APPROVED INTERIM	UTILITY REQUESTED RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential and General Service</u>					
Base Facility Charge by Meter Size					
5/8" X3/4"	\$46.24	\$53.83	\$63.60	\$46.82	\$2.14
3/4"	N/A	N/A	N/A	\$70.23	\$3.22
1"	\$115.60	\$134.58	\$159.00	\$117.05	\$5.36
1-1/2"	\$231.18	\$269.15	\$318.00	\$234.10	\$10.72
2"	\$369.85	\$430.64	\$508.00	\$374.56	\$17.15
3"	\$693.55	\$861.28	\$954.00	\$749.12	\$34.31
4"	\$1,155.93	\$1,345.75	\$1,590.00	\$1,170.50	\$53.61
6"	\$2,324.85	\$2,691.50	\$3,180.00	\$2,341.00	\$107.22
8"	\$3,699.02	\$4,306.40	\$5,088.00	\$3,745.60	\$171.55
Charge per 1,000 gallons - Residential					
0 - 6,000 gallons	\$4.62	\$5.38	\$6.35	N/A	N/A
6,001 - 12,000 gallons	\$7.76	\$9.03	\$10.71	N/A	N/A
Over 12,000 gallons	\$12.32	\$14.34	\$17.00	N/A	N/A
0 - 3,000 gallons	N/A	N/A	N/A	\$6.83	\$0.31
3,001 - 12,000 gallons	N/A	N/A	N/A	\$8.53	\$0.39
Over 12,000 gallons	N/A	N/A	N/A	\$17.07	\$0.78
Charge per 1,000 gallons - General Service					
0 - 6,000 gallons	\$4.62	\$5.38	\$6.35	\$10.02	\$0.46
6,001 - 12,000 gallons	\$7.76	\$9.03	\$10.71	N/A	N/A
Over 12,000 gallons	\$12.32	\$14.34	\$17.00	N/A	N/A
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>					
3,000 Gallons	\$60.10	\$69.97	\$82.65	\$67.31	
6,000 Gallons	\$73.96	\$86.11	\$101.70	\$92.90	
12,000 Gallons	\$120.52	\$140.29	\$165.96	\$144.08	

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: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Hill, Graves) *TH*
Division of Accounting and Finance (Galloway) *CG*
Division of Economics (Friedrich, Hudson) *BT*
Office of the General Counsel (Taylor) *WDT*

TR
BE APPROVED
ALM

RE: Docket No. 160220-WS – Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.

AGENDA: 02/07/17 – Regular Agenda – Proposed Agency Action for Issue 1 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: 02/08/17 (90-Day Deadline to Grant or Deny Application) (90-Day statutory Deadline to Address Rule Waiver has been waived by the Utility through February 7, 2017).

SPECIAL INSTRUCTIONS: None

Case Background

On October 11, 2016, South Sumter Utility Company, L.L.C. (South Sumter or Utility) filed its application for original water and wastewater certificates in Sumter County. The area is in the Southwest Florida Water Management District (SWFWMD) and is not in a water use caution area. The Utility anticipates providing services to approximately 8,393 water and 8,007 wastewater equivalent residential connections (ERCs) when it reaches build out in 2023.

The Utility's initial application was found to be deficient. The Utility corrected the deficiency on November 10, 2016, making this the official filing date of the completed application. Pursuant to Section 367.031, Florida Statutes (F.S.), the Commission shall grant or deny an application for a

certificate of authorization within 90 days of the official filing date of the completed application. Therefore, this application must be ruled upon by February 8, 2017.

Together with its application, the Utility filed a petition for temporary waiver of portions of Rule 25-30.033, Florida Administrative Code (F.A.C.), so that the Utility's initial rates and charges might be set at a date subsequent to the granting of the certificate of authorization. The Utility has waived the 90-day period for the Commission to grant or deny the waiver pursuant to Section 120.542(8), F.S., to allow the waiver request to be decided at the February 2017 Commission Agenda Conference.

The territory proposed to be served by South Sumter is owned or controlled by a related party which intends to develop the property as a Planned Unit Development as an expansion of The Villages of Sumter DRI Master Plan. South Sumter's service area will consist of single family homes, general and retail office space, and educational, medical, and recreational facilities.

The water treatment plant and the associated distribution system will be designed to supply the maximum daily demand and the peak hour demand. The plant will consist of wells which will provide 0.831 million gallons per day (MGD) of potable water. The water treatment will consist of sodium hypochlorite chlorination. A ground storage tank equipped with high service pumps will address peak hour water demands and maintain system pressure.

At build out the WWTP will have a capacity of 1.00 MGD maximum month average daily flow (MMADF). The build out will consist of two phases. The initial phase is anticipated to have a capacity of 0.2 MGD MMADF and the second phase will be an additional 0.8 MGD MMADF. Wastewater will be treated using an aerobic treatment system, with an oxidation ditch design which includes clarification, filtration, and sodium hypochlorite disinfection to treat effluent to acceptable levels for public-access reuse via golf course irrigation. Backup disposal will be to rapid infiltration basins during wet weather events or when effluent criteria do not meet the Department of Environmental Protection (DEP) standards.

The Commission has jurisdiction pursuant to Sections 367.031, 367.045, 367.081, and 120.452, F.S.

Discussion of Issues

Issue 1: Should the Commission grant South Sumter's petition for a temporary waiver of Rules 25-30.033(1)(p) and (q), F.A.C.?

Recommendation: Yes. South Sumter's petition for a temporary waiver of Rules 25-30.033(1)(p) and (q), F.A.C., should be granted. South Sumter should file the information required to set initial rates and charges in the third quarter of 2017. The Utility has met the requirements found in Section 120.542, F.S., and the Commission should grant South Sumter's petition for temporary waiver of Rules 25-30.033(1)(p) and (q) until it has completed its permitting and is closer to commencement of operations. (Hill, Taylor)

Staff Analysis: Rules 25-30.033(1)(p) and (q), F.A.C., direct the applicant for an original certificate to file information necessary for setting initial rates and charges, including: the filing of the existing and projected cost of the system and associated depreciation by year, the existing and projected annual contributions-in-aid-of-construction and associated amortization by year, the projected capital structure, current and projected annual operating expenses, a schedule showing how the proposed rates were developed, a schedule showing how the proposed service availability policy and charges were developed, a schedule showing how the customer deposits and miscellaneous service charges were developed, and a draft of the proposed tariff for the Utility. South Sumter has asked for a temporary waiver of those parts of the rule so that it may receive its certificates and then proceed with other permitting. When South Sumter has received its permits it will be able to provide accurate cost estimates, schedules and cost studies to support initial rates and charges.

Section 120.542, F.S., authorizes the Commission to grant variances or waivers to the requirements of its rules where the person subject to the rules has demonstrated that the underlying purpose of the statute has been or will be achieved by some other means, and that strict application of the rules would cause the person substantial hardship or would violate principles of fairness. "Substantial hardship" as defined in this section means demonstrated economic, technological, legal, or other hardship.

Section 367.031, F.S., requires each utility seeking to provide water and wastewater service to obtain a certificate of authorization from the Commission prior to obtaining permits from the DEP and the water management districts. Further, Section 367.045(5)(a), F.S., states that the Commission may grant a certificate of authorization if it is in the public interest. The purpose of Sections 367.031 and 367.045, F.S., is to ensure that a utility has the financial and technical ability to provide service and that there is a need for service in the proposed service area.

While South Sumter has requested a temporary waiver for filing part of the required financial and technical information regarding rate setting, as explained in Issue 2, South Sumter has provided sufficient information to demonstrate that it will have the financial and technical ability to provide water and wastewater service to the proposed service area. The development planned for the South Sumter territory will need water and wastewater service in 2018. The development will consist of 6,740 residential units and 120 commercial units to be developed in 2018 through 2023. South Sumter states that although it does not expect to provide service until 2018,

SWFWMD has required certification before it will review an application for water use permit. South Sumter states that it cannot calculate detailed facility cost information until after it is granted water use and other permits.

When a utility has met the criteria set forth in Section 120.542, F.S., the Commission has granted a temporary waiver of the rules regarding establishment of initial rates and charges and bifurcated the two parts of its certification proceedings.¹ In the instant case, South Sumter has met the underlying purpose of Sections 367.031 and 367.045, F.S., because it has demonstrated technical and financial ability to provide service and a need for service in the proposed territory. In addition, South Sumter has shown that it will suffer substantial hardship if all of the provisions of Rule 25-30.033, F.A.C., are strictly applied.

South Sumter has requested a waiver of the rules until it receives its other permits and is closer to commencing operations. South Sumter states that it will file its proposed tariffs and other required financial schedules to set initial rates sufficiently in advance of beginning operations, so that the Commission will have sufficient time to review and to establish initial rates and charges. South Sumter has stated that it will file the information required to set initial rates and charges in the third quarter of 2017, which will be at least eight months prior to the anticipated May 2018 date for commencing service. Staff recommends that the Utility has met the requirements found in Section 120.542, F.S., and the Commission should grant South Sumter's petition for temporary waiver of Rules 25-30.033(1)(p) and (q) until it has completed its permitting and is closer to commencement of operations.

¹Order No. PSC-13-0484-FOF-WS, issued October 15, 2013 in Docket No. 130105-WS, *In re: Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services of Hendry & Collier, LLC.*

Issue 2: Should the application of South Sumter Utility Company, L.L.C. for water and wastewater certificates be approved?

Recommendation: Yes. The Commission should grant South Sumter Utility Company, L.L.C. Certificate Nos. 669-W and 571-S to serve the territory described in Attachment A effective the date of the Commission's vote. The resultant order should serve as South Sumter's water and wastewater certificates and it should be retained by the Utility. (Hill, Galloway)

Staff Analysis: As stated in the case background, South Sumter filed an application for original water and wastewater certificates to provide service in Sumter County on October 11, 2016. The application is in compliance with the governing statute, Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for original certificates.

Notice

The application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, F.A.C. The notice of application for an initial certificate of authorization for water and wastewater certificates was mailed to the entities required on November 17, 2016. No objections to the notice of application have been received and the time for filing such has expired.

Land Ownership and Service Territory

South Sumter submitted a recorded executed warranty deed in the name of the Utility as required by Rule 25-30.033(m), F.A.C. Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.033(1)(j), F.A.C. A description of the territory requested by the applicant is appended to this recommendation as Attachment A.

Financial and Technical Ability

Rule 25-30.033(1)(h), and (i), F.A.C., requires a statement showing the financial and technical ability of the applicant to provide service, a detailed financial statement, and a list of all entities upon which the applicant is relying to provide funding along with those entities' financial statements. Since South Sumter has not been authorized by the Commission to provide service for compensation, it is relying upon the financial backing of its parent, Holding Company of The Villages, Inc. (The Villages). The Commission has traditionally allowed reliance on the parent's financial ability in these situations.² The Commission's reasoning has been the logical vested interest of a parent in the financial stability of its subsidiary. The application contains The

²Order Nos. PSC-13-0484-FOF-WS, issued October 15, 2013, in Docket No. 130105-WS, *In re: Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services of Hendry & Collier, LLC*; PSC-12-0224-PAA-WS, issued April 30, 2012, in Docket No. 090445-WS, *In re: Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Indian River, Okeechobee and St. Lucie counties by Grove Land Utilities, LLC*; PSC-08-0540-PAA-WS, issued August 18, 2008, in Docket No. 080103-WS, *In re: Application for certificates to provide water and wastewater service in Hardee and Polk Counties by TBBT Utility LLC*; PSC-07-0076-PAA-SU, issued January 29, 2007, in Docket No. 060602-SU, *In re: Application for certificate to provide wastewater service in Lee and Charlotte Counties by Town and Country Utilities Company*; and PSC-07-0274-PAA-WS, issued April 2, 2007, in Docket No. 060694-WS, *In re: Application for certificates to provide water and wastewater service in Flagler and Volusia Counties by D & E Water Resources*.

Villages' most recent financial statements as well as a letter of commitment from The Villages "to make the financial and operating commitment necessary" for South Sumter to build and operate the system in Sumter County. Staff believes that The Villages' financial statements and extensive business operations in Florida show adequate and stable funding reserves for the Utility. Therefore, staff recommends that South Sumter has demonstrated that it will have access to adequate financial resources to operate the Utility.

Regarding technical ability, as stated above, The Villages has experience with operating multiple water and wastewater utilities. These systems are in good standing with the DEP. The Utility has also retained experienced engineering, design, permitting, construction, and operation professionals with experience in the development of its other utility systems.

Based on the above, staff recommends that South Sumter has demonstrated the technical and financial ability to provide service to the proposed service territory.

Conclusion

The Commission should grant South Sumter Utility Company, L.L.C. Certificate Nos. 669-W and 571-S to serve the territory described in Attachment A effective the date of the Commission's vote. The resultant order should serve as South Sumter's water and wastewater certificates and it should be retained by the Utility.

Issue 3: Should initial water and wastewater rates, charges, and return on equity be approved at this time?

Recommendation: No. Initial water and wastewater rates, charges, and return on equity should not be approved at this time. (Hill)

Staff Analysis: As discussed in the case background, the Commission must grant or deny the Utility's Application for Original Certificates within 90 days of the filing date of the Application. Reviewing the rates and charges at a later date does not conflict with the requirements in Section 367.045, Florida Statutes (F.S.), to approve or deny certificate applications within 90 days. As discussed in Issue 1, there should be no harm in bifurcating the rates and charges portion to a later date because the Utility will not be operational until 2018. The Commission has previously approved this method of bifurcation of the certification and the rate setting process.³ Therefore, staff recommends that initial water and wastewater rates, charges, and return on equity should not be approved at this time.

³Order No. PSC-13-0484-FOF-WS, issued October 15, 2013 in Docket No. 130105-WS, *In re: Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services of Hendry & Collier, LLC.*

Issue 4: Should this docket be closed?

Recommendation: If no timely protest to the proposed agency action portion of this recommendation is filed with the Commission by a substantially affected person within 21 days of the date of the order, a Consummating Order should be issued. Following the expiration of the protest period with no timely protest, the issuance of a Consummating Order, the docket should be closed administratively. (Taylor)

Staff Analysis: If no timely protest to the proposed agency action portion of this recommendation is filed with the Commission by a substantially affected person within 21 days of the date of the order, a Consummating Order should be issued. Following the expiration of the protest period with no timely protest, the issuance of a Consummating Order, the docket should be closed administratively.

**SOUTH SUMTER UTILITY COMPANY, LLC
FLORIDA PUBLIC SERVICE
COMMISSION SERVICE AREA
SEPTEMBER 2016**

THOSE PORTIONS OF SECTIONS 20, 21, 23, 24, 25, 26, 27, 28, 29, 33, 34, 35 AND 36, TOWNSHIP 19 SOUTH, RANGE 23 EAST AND SECTIONS 1, 2 AND 12, TOWNSHIP 20 SOUTH, RANGE 23 EAST, ALL IN SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

THAT PORTION OF SECTION 20, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTHWEST OF FLORIDA'S TURNPIKE, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 SAID SECTION 20 RUN ALONG THE EAST LINE THEREOF, N00°13'44"W, 46.67 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID EAST LINE, N00°13'44"W, 1,878.15 FEET, MORE OF LESS, TO THE SOUTHWESTERLY RIGHT-OF-WAY OF FLORIDA'S TURNPIKE; THENCE N43°22'33"W, ALONG SAID RIGHT-OF-WAY 3,007.70 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 5,579.58 FEET; THENCE NORTHWESTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 07°55'57", A DISTANCE OF 772.48 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 20; THENCE DEPARTING SAID SOUTHWESTERLY RIGHT-OF-WAY AND ALONG SAID WEST LINE, S00°14'50"E, 659.43 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 20; THENCE DEPARTING SAID WEST LINE AND ALONG THE NORTH LINE OF SOUTHEAST 1/4 OF THE NORTHWEST 1/4, RUN S89°42'48"W, 1,322.27 FEET TO THE NORTHWEST CORNER THEREOF; THENCE DEPARTING SAID NORTH LINE AND ALONG THE WEST LINE OF SAID SOUTHEAST 1/4 OF SAID NORTHWEST 1/4, S00°09'48"E, 654.10 FEET; THENCE DEPARTING SAID WEST LINE, EAST, 353.45 FEET; THENCE SOUTH, 178.54 FEET; THENCE EAST, 580.00 FEET; THENCE NORTH, 178.54 FEET; THENCE EAST, 515.00 FEET; THENCE SOUTH, 666.78 FEET; THENCE WEST, 155.00 FEET; THENCE SOUTH, 612.46 FEET; THENCE EAST, 310.00 FEET; THENCE NORTH, 612.46 FEET; THENCE EAST, 690.00 FEET; THENCE SOUTH, 662.46 FEET; THENCE EAST, 346.52 FEET; THENCE S00°14'17"E, 662.45 FEET; THENCE WEST, 643.40 FEET; THENCE S00°00'35"E, 1,310.50 FEET; THENCE EAST, 1,310.07 FEET; THENCE NORTH, 34.86 FEET; THENCE EAST, 649.16 FEET TO THE POINT OF BEGINNING.

AND

THAT PORTION OF THE SOUTH 1/2 OF THE SOUTH 1/2 OF SECTION 21, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTHWEST OF FLORIDA'S TURNPIKE.

AND

THAT PORTION OF THE SOUTH 3/4 OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH OF STATE ROAD NO. 44 AND WEST OF COUNTY ROAD C-468; DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE S89°29'08"E ALONG THE SOUTH BOUNDARY OF SAID SECTION 23, 1661.40 FEET; THENCE DEPARTING SAID SOUTH BOUNDARY, PROCEED N00°18'29"E, 12.72 FEET TO THE POINT OF BEGINNING; THENCE S89°59'05"E, 919.85 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-468 (WIDTH VARIES); THENCE N18°39'36"E ALONG SAID RIGHT-OF-WAY LINE, 1402.68 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 3884.72 FEET AND A CENTRAL ANGLE OF 10°34'36"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID RIGHT-OF-WAY LINE, 717.11 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N18°39'57"E, 134.00 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N29°25'38"E, 1157.25 FEET; THENCE N60°34'22"W ALONG A DEVIATION IN SAID RIGHT-OF-WAY LINE, 17.00 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N29°25'38"E, 372.11 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE N25°48'06"W, 85.48 FEET TO THE INTERSECTION WITH THE SOUTH RIGHT OF WAY LINE OF STATE ROAD NO. 44 (WIDTH VARIES), SAID POINT BEING 132.00 FEET, AS MEASURED AT RIGHT ANGLES, FROM THE CENTERLINE; THENCE DEPARTING SAID WESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD C-468, PROCEED N81°01'49"W ALONG SAID SOUTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 44, 223.40 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 2732.78 FEET AND A CENTRAL ANGLE OF 01°58'02"; THENCE WESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID RIGHT-OF-WAY LINE, 93.82 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, PROCEED S02°33'16"E, 102.73 FEET; THENCE S18°39'36"W, 152.40 FEET; THENCE N62°40'42"W, 301.86 FEET; THENCE N18°37'48"E, 135.19 FEET TO A POINT ON THE AFOREMENTIONED SOUTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 44, SAID POINT BEING 132 FEET, AS MEASURED AT RIGHT ANGLES, FROM THE CENTERLINE, AND ALSO BEING ON A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 2732.78 FEET AND A CENTRAL ANGLE OF 09°48'57"; THENCE WESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID RIGHT-OF-WAY LINE, 468.18 FEET; THENCE CONTINUE ALONG SAID RIGHT-OF-WAY LINE S81°31'33"W, 723.51 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, PROCEED S08°28'27"E, 278.00 FEET; THENCE S66°50'21"W, 256.38 FEET; THENCE N58°22'24"W, 173.88 FEET; THENCE N66°38'54"W, 90.62 FEET; THENCE N08°28'27"W, 183.21 FEET TO A POINT ON THE AFOREMENTIONED SOUTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 44, SAID POINT BEING 132.00 FEET, AS MEASURED AT RIGHT ANGLES, FROM THE CENTERLINE; THENCE S81°31'33"W ALONG SAID RIGHT-OF-WAY LINE 547.46 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A

RADIUS OF 2423.83 FEET AND A CENTRAL ANGLE OF 14°48'27"; THENCE WESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID RIGHT-OF-WAY LINE, 626.41 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, PROCEED S00°17'52"W ALONG SAID EAST BOUNDARY, 517.45 FEET; THENCE DEPARTING SAID EAST BOUNDARY, PROCEED S89°40'55"E, 999.99 FEET; THENCE S00°16'02"W, 139.00 FEET; THENCE S00°18'29"W, 2637.42 FEET TO THE POINT OF BEGINNING.

AND

THAT PORTION OF THE EAST 1/2 OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH OF STATE ROAD 44 AND EAST OF COUNTY ROAD C-468.

LESS:

THAT LAND LYING IN SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 23, RUN N00°20'01"E, ALONG THE EAST LINE THEREOF A DISTANCE OF 265.24 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N00°20'01"E, 448.89 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF STATE ROAD 44; THENCE ALONG SAID RIGHT-OF-WAY, N81°01'49"W, 125.03 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY, S08°58'11"W, 443.80 FEET; THENCE S81°01'49"E, 192.44 FEET TO THE POINT OF BEGINNING.

ALSO LESS:

THAT LAND LYING IN SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 23, RUN N89°50'36"W, ALONG THE SOUTH LINE THEREOF A DISTANCE OF 2,578.91 FEET TO THE EASTERLY RIGHT-OF-WAY OF COUNTY ROAD C-468; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING COURSES: N18°39'57"E, 1,380.44 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 3,754.72 FEET AND A CHORD BEARING AND DISTANCE OF N19°06'09"E, 57.36 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 00°52'31", A DISTANCE OF 57.36 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID RIGHT-OF-WAY, S61°21'37"E, 117.76 FEET; THENCE S06°40'03"W, 102.63 FEET; THENCE S47°33'53"W, 220.04 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 75.00 FEET; THENCE SOUTHERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 125°18'12", A DISTANCE OF 164.02 FEET; THENCE S77°44'19"E, 232.84 FEET; THENCE N88°49'06"E, 334.28 FEET; THENCE N00°14'30"E, 92.03 FEET; THENCE N45°19'31"E, 98.87 FEET; THENCE N67°02'27"E, 102.83 FEET; THENCE

N87°35'54"E, 117.80 FEET; THENCE N76°04'09"E, 239.46 FEET; THENCE N05°52'25"E, 176.99 FEET; THENCE N26°55'06"W, 39.42 FEET; THENCE N71°35'18"W, 61.83 FEET; THENCE S73°29'29"W, 173.24 FEET; THENCE N16°30'31"W, 125.00 FEET; THENCE S73°29'29"W, 487.28 FEET; THENCE N41°13'55"W, 209.86 FEET; THENCE N16°52'33"E, 169.18 FEET; THENCE N65°53'06"W, 106.90 FEET TO A POINT ON SAID EASTERLY RIGHT-OF-WAY AND A POINT ON THE ARC OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 3,754.72 FEET AND A CHORD BEARING AND DISTANCE OF S22°06'52"W, 337.29 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°08'55", A DISTANCE OF 337.41 FEET TO THE POINT OF BEGINNING.

ALSO LESS:

THAT LAND LYING IN SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 23, RUN N89°50'36"W, ALONG THE SOUTH LINE THEREOF A DISTANCE OF 2,578.91 FEET TO THE EASTERLY RIGHT-OF-WAY OF COUNTY ROAD C-468; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING COURSES: N18°39'57"E, 1,380.44 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 3,754.72 FEET AND A CHORD BEARING AND DISTANCE OF N24°02'47"E, 704.28 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°45'47", A DISTANCE OF 705.32 FEET; THENCE N29°25'38"E, 539.85 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID RIGHT-OF-WAY, S60°34'22"E, 50.00 FEET; THENCE N29°25'38"E, 67.67 FEET; THENCE S60°34'22"E, 781.32 FEET; THENCE S31°28'08"W, 67.92 FEET; THENCE S01°32'17"W, 62.14 FEET; THENCE S18°07'14"E, 131.07 FEET; THENCE N46°57'12"E, 354.12 FEET; THENCE N10°52'54"W, 58.45 FEET; THENCE N23°36'22"E, 59.38 FEET; THENCE N55°40'18"E, 180.95 FEET; THENCE N61°24'20"W, 238.03 FEET; THENCE S11°39'50"W, 107.05 FEET; THENCE S44°11'22"W, 67.01 FEET; THENCE S52°33'52"W, 78.77 FEET; THENCE S33°55'07"W, 100.02 FEET; THENCE N60°34'22"W, 836.29 FEET TO A POINT ON SAID EASTERLY RIGHT-OF-WAY; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, S29°25'38"W, 117.67 FEET TO THE POINT OF BEGINNING.

ALSO LESS:

THAT LAND LYING IN SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 23, RUN N89°50'36"W, ALONG THE SOUTH LINE THEREOF A DISTANCE OF 2,578.91 FEET TO THE EASTERLY RIGHT-OF-WAY OF COUNTY ROAD C-468; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING COURSES: N18°39'57"E, 1,380.44 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, HAVING

A RADIUS OF 3,754.72 FEET AND A CHORD BEARING AND DISTANCE OF N24°02'47"E, 704.28 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°45'47", A DISTANCE OF 705.32 FEET; THENCE N29°25'38"E, 85.58 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID RIGHT-OF-WAY, S60°31'44"E, 10.49 FEET; THENCE N29°25'38"E, 39.33 FEET; THENCE S60°34'22"E, 70.97 FEET; THENCE N29°25'38"E, 32.24 FEET; THENCE N60°34'22"W, 67.24 FEET; THENCE N29°25'38"E, 28.46 FEET; THENCE N60°34'22"W, 14.22 FEET TO A POINT ON SAID EASTERLY RIGHT-OF-WAY; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY, S29°25'38"W, 100.02 FEET TO THE POINT OF BEGINNING.

ALSO LESS:

THAT LAND LYING IN SECTION 23, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 23, RUN N89°50'36"W, ALONG THE SOUTH LINE THEREOF A DISTANCE OF 2,578.91 FEET TO THE EASTERLY RIGHT-OF-WAY OF COUNTY ROAD C-468; THENCE ALONG SAID RIGHT-OF-WAY THE FOLLOWING COURSES: N18°39'57"E, 1,380.44 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 3,754.72 FEET AND A CHORD BEARING AND DISTANCE OF N24°02'47"E, 704.28 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°45'47", A DISTANCE OF 705.32 FEET; THENCE N29°25'38"E, 1,223.63 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID RIGHT-OF-WAY, S60°34'22"E, 31.43 FEET; THENCE S07°28'14"W, 41.30 FEET; THENCE S68°34'57"E, 21.77 FEET; THENCE N16°28'22"E, 125.86 FEET; THENCE N60°34'22"W, 28.21 FEET TO A POINT ON SAID EASTERLY RIGHT-OF-WAY; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY THE FOLLOWING COURSES: S29°25'38"W, 18.97 FEET; THENCE N60°34'22"W, 12.00 FEET; THENCE S29°25'38"W, 68.42 FEET TO THE POINT OF BEGINNING.

AND

THOSE PORTIONS OF THE SOUTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH OF STATE ROAD 44.

LESS:

THAT LAND LYING IN SECTION 24, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 24, RUN N00°20'01"E, ALONG THE WEST LINE THEREOF A DISTANCE OF 265.24 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N00°20'01"E, 448.89 FEET TO

THE SOUTHERLY RIGHT-OF-WAY OF STATE ROAD 44; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY, S81°01'49"E, 174.97 FEET; THENCE DEPARTING SAID SOUTHERLY RIGHT-OF-WAY, S08°58'11"W, 443.80 FEET; THENCE N81°01'49"W, 107.56 FEET TO THE POINT OF BEGINNING.

ALSO LESS:

THAT LAND LYING IN SECTION 24, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 24, RUN N00°20'01"E, ALONG THE WEST LINE THEREOF A DISTANCE OF 714.13 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF STATE ROAD 44; THENCE ALONG SAID RIGHT-OF-WAY, S81°01'49"E, 1,108.46 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID RIGHT-OF-WAY, S16°11'00"W, 61.72 FEET; THENCE S43°41'47"W, 58.88 FEET; THENCE S78°16'29"W, 90.30 FEET; THENCE N81°01'49"W, 195.00 FEET; THENCE S08°58'11"W, 220.30 FEET; THENCE S81°01'49"E, 111.45 FEET; THENCE S56°01'00"E, 109.03 FEET; THENCE S33°40'40"E, 89.06 FEET; THENCE S15°33'34"E, 76.12 FEET TO THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 24; THENCE ALONG SAID SOUTH LINE, N89°31'56"E, 332.26 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 24; THENCE NORTHERLY ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE NORTHWEST 1/4 A DISTANCE OF 494.26 FEET, MORE OR LESS, TO THE SOUTHERLY RIGHT-OF-WAY OF STATE ROAD 44; THENCE DEPARTING SAID EAST LINE AND ALONG SAID SOUTHERLY RIGHT-OF-WAY N81°01'49"W, 232.13 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

AND

ALL OF SECTION 25, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

LESS:

THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

ALSO LESS:

THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND

THAT PORTION OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH AND EAST OF COUNTY ROAD C-468.

LESS:

THE EAST 436.00 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

ALSO LESS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE N. 00° 30' 06" E., ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 A DISTANCE OF 1152.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N. 00° 30' 06" E., ALONG SAID EAST LINE A DISTANCE OF 70.00 FEET TO THE EXISTING SOUTHERLY PROGRESS ENERGY POWER LINE EASEMENT LINE; THENCE N. 63° 16' 42" E., ALONG SAID SOUTHERLY EASEMENT LINE A DISTANCE OF 529.89 FEET TO THE CUSP OF A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1331.36 FEET AND A CENTRAL ANGLE OF 17° 35' 24"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 408.73 FEET, SAID ARC HAVING A CHORD BEARING OF S. 54° 29' 00" W., AND A CHORD DISTANCE OF 407.13 FEET; THENCE S. 63° 16' 42" W., A DISTANCE OF 159.57 FEET TO THE POINT OF BEGINNING.

ALSO LESS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE N. 00° 30' 06" E., ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 26, A DISTANCE OF 1304.60 FEET TO A POINT ON THE CENTERLINE OF COUNTY ROAD 468. THENCE N. 63° 16' 42" E., ALONG SAID CENTERLINE A DISTANCE OF 90.00 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1196.11 FEET AND A CENTRAL ANGLE OF 43° 07' 04"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND SAID CENTERLINE A DISTANCE OF 900.13 FEET; SAID ARC HAVING A CHORD BEARING OF N. 41° 43' 10" E., AND A CHORD DISTANCE OF 879.04 FEET; LEAVING SAID CENTERLINE THENCE S. 68° 24' 08" E. ALONG A RADIAL LINE A DISTANCE OF 65.00 FEET TO THE POINT OF BEGINNING; SAID POINT ALSO BEING A POINT ON THE SOUTHEASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 468; THENCE S. 68° 24' 08" E., ON A RADIAL LINE, A DISTANCE OF 37.11 FEET; THENCE N. 84° 32' 29" E. A DISTANCE OF 447.36 FEET; THENCE N. 22° 09' 30" E. A DISTANCE OF 122.39 FEET; THENCE N. 58° 24' 13" E. A DISTANCE OF 128.38 FEET; THENCE N. 80° 26' 21" E. A DISTANCE OF 258.44 FEET; THENCE S. 09° 36' 02" E. A DISTANCE OF 45.70 FEET; THENCE S. 78° 28' 29" W. A DISTANCE OF 173.11 FEET; THENCE S. 26° 58' 33" E. A DISTANCE OF 234.85 FEET; THENCE S. 12° 55' 35" E. A DISTANCE OF 244.22 FEET; THENCE N. 77° 08' 40" E., A DISTANCE OF 61.60 FEET; THENCE S 12° 51' 20" E. A DISTANCE OF 14.00 FEET;

THENCE S. 77° 08' 40" W. A DISTANCE OF 61.58 FEET; THENCE S. 12° 55' 35" E. A DISTANCE OF 15.00 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 60.00 FEET AND A CENTRAL ANGLE OF 84° 36' 50"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 88.61 FEET, SAID ARC HAVING A CHORD BEARING OF S. 29° 22' 50" W. AND A CHORD DISTANCE OF 80.77 FEET; THENCE S. 71° 41' 15" W. A DISTANCE OF 118.90 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 75.00 FEET AND A CENTRAL ANGLE OF 97° 05' 58"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 127.10 FEET, SAID ARC HAVING A CHORD BEARING OF N. 59° 45' 46" W. AND A CHORD DISTANCE OF 112.43 FEET; THENCE N. 11° 12' 47" W. A DISTANCE OF 236.84 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE WESTERLY AND HAVING A RADIUS OF 170.00 FEET AND A CENTRAL ANGLE OF 20° 40' 49"; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 61.36 FEET, SAID ARC HAVING A CHORD BEARING OF N. 21° 33' 11" W. AND A CHORD DISTANCE OF 61.03 FEET; THENCE N. 31° 53' 36" W. A DISTANCE OF 42.15 FEET; THENCE S. 88° 26' 47" W. A DISTANCE OF 218.47 FEET; THENCE S. 84° 32' 29" W. A DISTANCE OF 366.90 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY OF COUNTY ROAD 468, SAID POINT BEING ON A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1261.11 FEET AND A CENTRAL ANGLE OF 03° 25' 23"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AN ARC DISTANCE OF 75.34 FEET TO THE POINT OF BEGINNING; SAID CURVE HAVING A CHORD BEARING OF N. 21° 56' 46" E. AND A CHORD DISTANCE OF 75.33 FEET.

ALSO LESS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; THENCE N. 00° 30' 06" E., ALONG THE EAST LINE OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 26, A DISTANCE OF 1304.60 FEET TO A POINT ON THE CENTERLINE OF COUNTY ROAD 468; THENCE N. 63° 16' 42" E., ALONG SAID CENTERLINE A DISTANCE OF 90.00 FEET TO THE POINT OF CURVATURE OF A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1196.11 FEET AND A CENTRAL ANGLE OF 53° 42' 28"; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND SAID CENTERLINE A DISTANCE OF 1121.21 FEET TO THE POINT OF TANGENCY; SAID ARC HAVING A CHORD BEARING OF N. 36° 25' 28" E., AND A CHORD DISTANCE OF 1080.61 FEET; THENCE N. 09° 34' 14" E., A DISTANCE OF 811.05 FEET; THENCE LEAVING SAID CENTERLINE S. 80° 25' 46" E., A DISTANCE OF 65.00 FEET TO THE POINT OF BEGINNING. SAID POINT ALSO BEING A POINT ON THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 468; THENCE S. 80° 25' 46" E., A DISTANCE OF 203.00 FEET TO THE EASTERLY EASEMENT LINE OF A PROGRESS ENERGY POWER LINE EASEMENT BEING 100 FEET WIDE; THENCE N. 09° 34' 14" E., ALONG SAID EASTERLY LINE, A DISTANCE OF 58.27 FEET; THENCE LEAVING SAID EASTERLY LINE PROCEED S. 80° 25' 46" E., A DISTANCE OF 153.20 FEET; THENCE S. 41° 13' 40"

E., A DISTANCE OF 201.57 FEET; THENCE S. 22° 21' 27" E., A DISTANCE OF 234.98 FEET; THENCE S. 67° 38' 33" W., A DISTANCE OF 248.59 FEET; THENCE N. 22° 21' 27" W., A DISTANCE OF 186.22 FEET; THENCE N. 80° 25' 46" W., A DISTANCE OF 124.22 FEET TO SAID EASTERLY LINE OF A POWER LINE EASEMENT; THENCE N. 09° 34' 14" E., ALONG SAID EASTERLY LINE A DISTANCE OF 186.99 FEET; THENCE LEAVING SAID EASTERLY LINE PROCEED N. 80° 25' 46" W., A DISTANCE OF 203.00 FEET TO THE EASTERLY RIGHT OF WAY OF COUNTY ROAD 468; THENCE N. 09° 34' 14" E., ALONG SAID EASTERLY RIGHT OF WAY A DISTANCE OF 55.00 FEET TO THE POINT OF BEGINNING.

ALSO LESS:

THAT LAND LYING IN THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 26 RUN N89°55'32"W, ALONG THE SOUTH LINE THEREOF A DISTANCE OF 436.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID SOUTH LINE, N89°55'32"W, 88.00 FEET; THENCE DEPARTING SAID SOUTH LINE, N00°21'53"E, 200.00 FEET; THENCE S89°55'32"E, 88.00 FEET TO THE WEST LINE OF THE EAST 436.00 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE ALONG SAID WEST LINE, S00°21'53"W, 200.00 FEET TO THE POINT OF BEGINNING.

AND

THAT PORTION OF THE SOUTHEAST 1/4 OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTH AND EAST OF COUNTY ROAD C-468.

AND

THAT PORTION OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 23 EAST SUMTER COUNTY, FLORIDA, LYING NORTH AND EAST OF FLORIDA'S TURNPIKE AND NORTH OF COUNTY ROAD COUNTY ROAD C-468, DESCRIBED AS FOLLOWS:

FROM THE EAST 1/4 SECTION CORNER OF SAID SECTION 27 RUN S00°27'14"W, ALONG THE EAST LINE OF THE SOUTHEAST 1/4, A DISTANCE OF 1,063.37 FEET, MORE OR LESS, TO A POINT THAT IS 900.00 FEET NORTH OF THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY OF COUNTY ROAD C-468 AND THE EAST LINE OF THE SAID SOUTHEAST 1/4, AS MEASURED ALONG THE SECTION LINE; THENCE DEPARTING SAID EAST LINE, S63°20'10"W, PARALLEL WITH THE NORTHERLY RIGHT-OF-WAY OF COUNTY ROAD C-468, 168.53 FEET TO A POINT THAT IS 150.00 FEET WEST, BY PERPENDICULAR MEASUREMENT, OF THE EAST LINE OF SAID SOUTHEAST 1/4; THENCE PARALLEL WITH SAID EAST LINE THE

FOLLOWING COURSES: S00°27'14"W, 157.29 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°27'14"W, 742.89 FEET TO THE NORTHERLY RIGHT-OF-WAY OF COUNTY ROAD C-468; THENCE DEPARTING SAID PARALLEL LINE AND ALONG SAID NORTHERLY RIGHT-OF-WAY THE FOLLOWING COURSES: S63°16'44"W, 415.10 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 3,209.04 FEET; THENCE WESTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 26°53'57", A DISTANCE OF 1,506.57 FEET; THENCE N89°49'19"W, 428.59 FEET; THENCE S89°42'52"W, 32.06 FEET TO A POINT ON THE LIMITED ACCESS RIGHT-OF-WAY OF FLORIDA'S TURNPIKE; THENCE DEPARTING THE NORTHERLY RIGHT-OF-WAY OF COUNTY ROAD C-468 AND ALONG THE EASTERLY LIMITED ACCESS RIGHT-OF-WAY OF FLORIDA'S TURNPIKE THE FOLLOWING COURSES: N00°19'46"W, 174.91 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 550.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC THEREOF THROUGH A CENTRAL ANGLE OF 48°36'09", A DISTANCE OF 466.55 FEET; THENCE N48°55'55"W, 9.41 FEET; THENCE DEPARTING SAID LIMITED ACCESS RIGHT-OF-WAY, N00°00'00"E, 213.72 FEET; THENCE N89°09'45"E, 1,655.63 FEET; THENCE N26°47'19"W, 19.43 FEET; THENCE N63°16'51"E, 940.74 FEET TO THE POINT OF BEGINNING.

AND

THAT PORTION OF SECTION 28, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; LYING SOUTHWESTERLY OF FLORIDA'S TURNPIKE AND NORTH OF COUNTY ROAD C-468;

LESS:

THE LIMITED ACCESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE, LYING IN THE SOUTHEAST CORNER THEREOF;

AND

THAT PORTION OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

FROM THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 29, RUN S00°01'14"E, ALONG THE EAST LINE THEREOF A DISTANCE OF 448.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID EAST LINE, S00°01'14"E, 2,210.14 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST 1/4; THENCE DEPARTING SAID EAST LINE AND ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID NORTHEAST 1/4, S89°55'49"W, 1,317.71 FEET TO THE NORTHEAST CORNER OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 29; THENCE DEPARTING SAID SOUTH LINE AND ALONG THE EAST LINE OF SAID WEST 1/2, S00°08'41"W, 1,158.85 FEET; THENCE DEPARTING SAID EAST LINE, WEST,

639.67 FEET; THENCE NORTH, 3,500.73 FEET; THENCE EAST, 1,260.07 FEET; THENCE SOUTH, 130.14 FEET; THENCE EAST, 699.51 FEET TO THE POINT OF BEGINNING.

AND

THE EAST HALF OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTH OF COUNTY ROAD C-468.

AND

THOSE PORTIONS OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS;

THE NORTH 3/4 OF THE EAST 1/2 OF SAID SECTION; LESS RIGHT-OF-WAY FOR COUNTY ROAD 501 AND LESS RIGHT-OF-WAY FOR COUNTY ROAD C-468;

AND

THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 33, TOWNSHIP 19 SOUTH, RANGE 23 EAST, AND THE NORTH 30.00 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 33; LESS THAT PORTION OF THE EAST 35.75 FEET OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, LYING SOUTH OF THE NORTH 208.71 FEET THEREOF, ALSO LESS RIGHT-OF-WAY FOR COUNTY ROAD 501;

AND

ALL OF SECTION 34, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; LESS RIGHT-OF-WAY FOR FLORIDA'S TURNPIKE; ALSO LESS RIGHT-OF-WAYS FOR COUNTY ROAD C-468 AND COUNTY ROAD 501.

AND

THAT PORTION OF SECTION 35, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTHERLY OF FLORIDA'S TURNPIKE.

AND

ALL OF SECTION 36, TOWNSHIP 19 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA.

AND

THE EAST 1443.75 FEET OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING SOUTHERLY OF FLORIDA'S TURNPIKE;

AND

THAT PORTION OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA; LYING NORTHERLY OF FLORIDA'S TURNPIKE;

LESS:

THAT LAND LYING IN SECTION 1, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 20 SOUTH, RANGE 23 EAST IN SUMTER COUNTY, FLORIDA; THENCE RUN S00°40'20"W, ALONG THE EAST BOUNDARY OF SAID SECTION 1, A DISTANCE OF 1740.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°40'20"W, ALONG SAID EAST BOUNDARY OF SECTION 1, A DISTANCE OF 1057.86 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 1; THENCE S00°44'45"W, ALONG SAID EAST BOUNDARY OF SECTION 1, A DISTANCE OF 2487.49 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF FLORIDA'S TURNPIKE; THENCE RUN ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING THREE (3) COURSES: (1) N42°21'30"W, A DISTANCE OF 505.19 FEET TO A CURVE THAT IS CONCAVE TO THE SOUTHWEST; (2) THENCE NORTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 1498.35 FEET (SAID CURVE HAVING A RADIUS OF 5879.58 FEET, A CENTRAL ANGLE OF 14°36'04" AND A CHORD BEARING AND DISTANCE OF N49°46'20"W, 1494.30 FEET); (3) THENCE N57°03'06"W, A DISTANCE OF 287.77 FEET; THENCE N02°21'09"W, A DISTANCE OF 337.71 FEET; THENCE N00°39'29"E, A DISTANCE OF 1724.92 FEET; THENCE S89°36'07"E, A DISTANCE OF 1733.89 FEET RETURNING TO THE POINT OF BEGINNING.

AND

THAT PORTION OF SECTION 2, TOWNSHIP 20 SOUTH, RANGE 23 EAST, LYING NORTHERLY OF FLORIDA'S TURNPIKE.

AND

THAT PORTION OF THE EAST 1443.75 FEET OF SECTION 12, TOWNSHIP 20 SOUTH, RANGE 23 EAST, SUMTER COUNTY, FLORIDA, LYING NORTH OF COUNTY ROAD C-470.

FLORIDA PUBLIC SERVICE COMMISSION

**Authorizes
South Sumter Utility Company, L.L.C.
Pursuant to
Certificate Number 669-W**

To provide water service in Sumter County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, 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>
*	*	160220-WS	Original Certificate

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

FLORIDA PUBLIC SERVICE COMMISSION

**Authorizes
South Sumter Utility Company, L.L.C.
Pursuant to
Certificate Number 571-S**

To provide wastewater service in Sumter County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, 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>
*	*	160220-WS	Original Certificate

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

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: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Lewis) *CKL TB*
Division of Accounting and Finance (Fletcher, Norris, Sowards) *BS*
Division of Economics (Friedrich) *ST PDS*
Office of the General Counsel (Trierweiler) *WAT*

RE: Docket No. 160144-WU – Application for transfer of Certificate No. 288-W in Pasco County from Orangeland Water Supply to Orange Land Utilities, LLC. *ALM*

AGENDA: 02/07/17 – Regular Agenda – Proposed Agency Action for Issues 2, 3, 4, 5, 6, 7, and 8 - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: 60-Day Suspension Date - Waived

SPECIAL INSTRUCTIONS: None

Case Background

On June 6, 2016, Orange Land Utilities, LLC (OLU, Applicant, or Buyer) filed an application for the transfer of Certificate No. 288-W from Orangeland Water Supply (Orangeland, Utility, or Seller) in Pasco County. The service area is located in the Southwest Florida Water Management District which has enacted year-round water conservation measures. According to the Utility's 2015 Annual Report, it serves approximately 74 water customers with operating revenue of \$16,716, which designates it as a Class C utility. Wastewater treatment is provided by septic tanks.

Orangeland has been under Florida Public Service Commission (Commission) jurisdiction since July 11, 1972, when Pasco County transferred jurisdiction to the Commission. On April 28, 1977, the Utility was granted Certificate No. 288-W to operate a water utility.¹ There have been no certification actions since that time. The rates and charges for utility service were approved by the Commission in 2008.²

This recommendation addresses the transfer of the water system, the net book value of the water system at the time of transfer, the need for an acquisition adjustment, and additional requested charges. On October 13, 2016, OLU waived the 60-day statutory timeframe for the Commission's decision on the proposed service charges as set forth in Section 367.091(6), Florida Statutes (F.S.).³ The Commission has jurisdiction pursuant to Sections 367.071 and 367.091, F.S.

¹Order No. 7790, issued April 28, 1977, in Docket No. 760763-W, In re: *Application of Orangeland Water Supply for a certificate to operate a water utility in Pasco County, Florida, pursuant to Section 367.171, Florida Statutes.*

²Order PSC-08-0640-AS-WU, issued October 3, 2008, in Docket No. 070601-WU - *In re: Application for staff-assisted rate case in Pasco County by Orangeland Water Supply.*

³See Document No. 08195-16.

Discussion of Issues

Issue 1: Should the transfer of Certificate No. 288-W in Pasco County from Orangeland Water Supply to Orange Land Utilities, LLC be approved?

Recommendation: Yes. The transfer of the water system and Certificate No. 288-W is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as the Buyer's certificate and should be retained by the Buyer. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.). The Seller should be responsible for all Regulatory Assessment Fees (RAFs) payable through the date of closing. The Buyer should be responsible for filing the 2016 Annual Report and all future Annual Reports, and RAFs subsequent to the date of closing (May 1, 2016). (Friedrich, Lewis, Sowards)

Staff Analysis: On June 6, 2016, Orange Land Utilities, LLC. filed an application for the transfer of Certificate No. 288-W from OrangeLand Water Supply in Pasco County. The application is in compliance with Section 367.071, F.S., and Commission rules concerning applications for transfer of certificates. The sale occurred on May 1, 2016, contingent upon Commission approval, pursuant to Section 367.071(1), F.S.

Noticing, Territory, and Land Ownership

On July 6, 2016, staff notified OLU that its application was not in compliance with the noticing provisions set forth in Section 367.071, F.S., and Rule 25-30.030, F.A.C. The Utility filed a corrected notice on September 9, 2016. No objections to the transfer were filed, and the time for doing so has expired. The application also contains a description of the water service territory which is appended to this recommendation as Attachment A. The application contains a copy of a quit claim deed that was executed on May 6, 2016, as evidence that the Applicant owns the land upon which the water treatment facilities are located pursuant to Rule 25-30.037(2)(q), F.A.C.

Purchase Agreement and Financing

Pursuant to Rule 25-30.037(2)(i), and (j), F.A.C., the application contains a statement regarding financing and a copy of the purchase agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. There are no customer deposits, guaranteed revenue contracts, developer agreements, customer advances, leases, or debt of Orangeland that must be disposed of with regard to the transfer. According to the purchase agreement, the total purchase price for the assets is \$8,500. According to the Buyer, the sale took place on May 1, 2016, subject to Commission approval, pursuant to Section 367.071(1), F.S.

Facility Description and Compliance

The water treatment system consists of two wells, a steel hydropneumatic ground storage tank with a storage capacity of 1,000 gallons, and a liquid chlorination system used for disinfection. The last Florida Department of Environmental Protection (DEP) sanitary survey was conducted on May 27, 2014, and there were three deficiencies, which have been corrected. On July 15,

2015, DEP deemed the Utility to be in compliance, therefore, the system appears to be in compliance with DEP rules.

Technical and Financial Ability

Pursuant to Rule 25-30.037(2)(1), F.A.C., the application contains statements describing the technical and financial ability of the Applicant to provide service to the proposed service area. As referenced in the transfer application, the Buyer was appointed to the Citrus County Water and Wastewater Authority, the local regulatory body for Citrus County, where he served for seven years. The Buyer also served as the "Class C" representative for the Governors Study Committee for Investor Owned Water and Wastewater Utility Systems in 2013. He attends yearly training classes through the Florida Rural Water Association and completed the National Association of Regulatory Utility Commissioners (NARUC) Utility Rate School in 2001. The Buyer owns, is the receiver of, or is the manager of, a total of seven Class C water and wastewater facilities that are regulated by the Commission.

Staff reviewed the personal financial statements of the Buyer, as well as the financial statements of Florida Utility Services 1, LLC, an unregulated Company owned by the Buyer. Based on the above, the Buyer has demonstrated the technical and financial ability to provide service to the existing service territory.

Rates and Charges

The Utility's rates and charges were last approved by a settlement in a staff-assisted rate case.⁴ In 2014, the rates were subsequently reduced to reflect the expiration of rate case expense amortized in 2008. The Utility's existing and recommended rates and charges are shown on Schedule No. 1. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by this Commission. Therefore, staff recommends that the Utility's existing rates and charges remain in effect until a change is authorized by this Commission in a subsequent proceeding.

Regulatory Assessment Fees and Annual Reports

Staff has verified that the Seller is current with respect to Annual Reports and RAFs through December 31, 2015. The Buyer will be responsible for filing Annual Reports and paying RAFs after May 1, 2016, and all future years.

Conclusion

Based on the foregoing, staff recommends that the transfer of the water system and Certificate No. 288-W is in the public interest and should be approved effective the date of the Commission vote. The resultant order should serve as the Buyer's certificate and should be retained by the Buyer.

⁴Order No. PSC-08-0640-AS-WU, in Docket No. 070601-WU, dated October 3, 2008, *In re: Application for staff-assisted rate case in Pasco County by Orangeland Water Supply*

Issue 2: What is the appropriate net book value for the Orangeland water system for transfer purposes and should an acquisition adjustment be approved?

Recommendation: The net book value (NBV) of the water system for transfer purposes is \$4,958 as of May 1, 2016. An acquisition adjustment should not be included in rate base. Within 90 days of the date of the final order, OLU should be required to notify the Commission in writing that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the 2016 Annual Report when filed. (Sewards)

Staff Analysis: Rate base was last established as of June 30, 2007. The purpose of establishing net book value for transfers is to determine whether an acquisition adjustment should be approved. The NBV does not include normal ratemaking adjustments for used and useful plant or working capital. The NBV has been updated to reflect balances as of May 1, 2016. Staff's recommended NBV, as described below, is shown on Schedule No. 3.

The Seller did not provide its books and records to the Buyer. Staff auditors were not able to determine if the records were maintained in accordance with the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA). Staff auditors obtained the beginning balances of the components of NBV as of June 30, 2007, established in Docket No. 070601-WU. Auditors traced asset additions to supporting documentation and ensured retirements were made when a capital item was removed or replaced.

Utility Plant in Service (UPIS)

Staff auditors reviewed UPIS additions since the last rate case proceeding and calculated a UPIS balance of \$47,939. However, in the response to the Staff Audit Report, OLU stated the UPIS amount should be \$50,816 to reflect the correct retirement amount for a well pump. After recalculating UPIS, staff agrees with OLU's balance. Therefore, staff recommends a UPIS balance of \$50,816 as of May 1, 2016.

Land

In Order No. PSC-08-0309-PAA-WU, issued May 13, 2008, the Commission established the value of the land to be \$1,000. There have been no additions to land purchased since that order was issued. Therefore, staff recommends a land balance of \$1,000, as of May 1, 2016.

Accumulated Depreciation

Based on the UPIS adjustment discussed earlier, staff auditors calculated an accumulated depreciation balance of \$47,939. However, in the response to the Staff Audit Report, OLU states the accumulated depreciation amount should be \$45,625. After recalculating accumulated depreciation, staff agrees with OLU's balance. As a result, accumulated depreciation should be \$45,625 as of May 1, 2016.

Contributions-in-Aid-of-Construction (CIAC) and Accumulated Amortization of CIAC

The staff auditors reviewed CIAC additions and calculated a CIAC balance of \$7,350. Staff auditors also reviewed accumulated amortization of CIAC since the last rate case proceeding and has calculated a balance of \$5,936. However, in response to the Staffs Audit Report, OLU stated that the CIAC balance should be \$7,350 and stated the accumulated amortization of CIAC should be \$6,117. After recalculating, staff agrees with OLU's accumulated amortization of CIAC balance. Thus, staff recommends CIAC and accumulated amortization of CIAC balances of \$7,350 and \$6,117, respectively, as of May 1, 2016.

Net Book Value

Based on the adjustments described above, staff recommends that the NBV is \$4,958 as of May 1, 2016, which is shown on Schedule No. 2.

Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of the acquisition. The assets were purchased for \$8,500. As stated above, staff has determined the appropriate NBV total to be \$4,958. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment may be appropriate when the purchase price is greater than the NBV, and a negative acquisition adjustment may be appropriate when the purchase price is less than NBV. However, pursuant to Rule 25-30.0371(2), F.A.C., a positive acquisition adjustment shall not be included in rate base unless there is proof of extraordinary circumstances. The Buyer did not request a positive acquisition adjustment. As such, staff recommends that no positive acquisition adjustment be approved.

Conclusion

Based on the above, staff recommends that the NBV of the water system for transfer purposes is \$4,958 as of May 1, 2016. No acquisition adjustment should be included in rate base. Within 90 days of the date of the final order, the Buyer should be required to notify the Commission in writing, that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the 2016 Annual Report when filed.

Issue 3: Should the Commission approve Orange Land Utilities, LLC's request to implement miscellaneous service charges?

Recommendation: Yes. OLU's request to implement miscellaneous service charges should be approved. The charges should be effective on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Friedrich)

Staff Analysis: The Utility currently does not have miscellaneous service charges. Section 367.091, F.S., authorizes the Commission to approve miscellaneous service charges. During the course of this proceeding, the Utility requested \$30 each for initial connection, normal reconnection, and violation reconnection charges. The Utility also requested a \$23 premises visit charge. The Utility provided cost justification in support of its requested charges as required by Section 367.091(6) F.S. The cost justification included a 4.5 percent markup for RAFs that is based on the revenues generated by the proposed charges. The Commission has previously approved regulatory assessment fees for new miscellaneous service charges.⁵ In addition, staff utilized the hourly salaries provided by the Utility for the administrative employee and the field employee who processes and administers miscellaneous service charges. However, staff adjusted the time allotment for processing these charges and adjusted the amount per mile allowed for transportation consistent with Commission practice.⁶ Staff's recommended miscellaneous service charges are rounded up to the nearest tenth.

Initial Connection

The initial connection charge is levied for service initiation at a location where service did not exist previously. An OLU representative makes one trip when performing the service of an initial connection. Based on labor and transportation to and from the service territory, staff recommends initial connection charges of \$18.60 for normal hours and \$21.60 for after hours. Staff's calculation is shown below in Table 3-1.

⁵Order No. PSC-99-2378-TRF-WU, in Docket No. 990763-WU, dated December 6, 1999, *In re: Tariff filing by Floralino Properties, Inc. requesting approval of premises visit charge for visits requested by customers in Pasco County.*

⁶Order No. PSC-16-0583-PAA-WS, in Docket No. 150010-WS, dated December 29, 2016, *In re: Application for staff-assisted rate case in Brevard County by Aquarina Utilities, Inc.*

**Table 3-1
 Initial Connection Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$18.00/hr x 1/4hr)	\$4.50	Labor (Administrative) (\$18.00/hr x 1/4hr)	\$4.50
Labor (Field) (\$17.25/hr x 1/3 hr)	\$5.75	Labor (Field) (\$25.88/hr x 1/3 hr)	\$8.63
Transportation (\$0.535/mile x 14 miles-to/from)	\$7.49	Transportation (\$0.535/mile x 14 miles-to/from)	\$7.49
Mark up for RAF (4.5%)	\$0.80	Mark up for RAF (4.5%)	\$0.93
Total	\$18.54	Total	\$21.55

Source: Utility's cost justification documentation.

Normal Reconnection Charge

A normal reconnection charge is levied for the transfer of service to a new customer account at a previously served location, or reconnection of service subsequent to a customer requested disconnection. A normal reconnection requires two trips, which includes one to turn service on and the other to turn service off.

Based on labor and transportation to and from the service territory, staff recommends that the normal reconnection charge should be \$29.40 for normal hours and \$33.90 for after hours. Staff's calculations are shown below in Table 3-2.

**Table 3-2
 Normal Reconnection Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$18.00/hr x 1/4hr)	\$4.50	Labor (Administrative) (\$18.00/hr x 1/4hr)	\$4.50
Labor (Field) (\$17.25/hr x 1/4 hr x 2)	\$8.63	Labor (Field) (\$25.88/hr x 1/4hr x 2)	\$12.94
Transportation (\$0.535/mile x 14 miles-to/from x 2)	\$14.98	Transportation (\$0.535/mile x 14 miles-to/from x 2)	\$14.98
Mark up for RAF (4.5%)	\$1.26	Mark up for RAF (4.5%)	\$1.46
Total	\$29.37	Total	\$33.88

Source: Utility's cost justification documentation

Violation Reconnection Charge

The violation reconnection charge is levied prior to reconnection of an existing customer after discontinuance of service for cause. The service performed for violation reconnection requires two trips, which includes one trip to turn off service and a subsequent trip to turn on service once the violation has been remedied. Based on labor and transportation to and from the service

territory, staff recommends violation reconnection charges of \$29.40 for normal hours and \$33.90 for after hours. Staff's calculations are shown below in Table 3-3.

**Table 3-3
 Violation Reconnection Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$18.00/hr x 1/4hr)	\$4.50	Labor (Administrative) (\$18.00/hr x 1/4hr)	\$4.50
Labor (Field) (\$17.25/hr x 1/4 hr x 2)	\$8.63	Labor (Field) (\$25.88/hr x 1/4 hr x 2)	\$12.94
Transportation (\$0.535/mile x 14 miles-to/from) x 2	\$14.98	Transportation (\$0.535/mile x 14 miles-to/from) x 2	\$14.98
Mark up for RAF (4.5%)	\$1.26	Mark up for RAF (4.5%)	\$1.46
Total	\$29.37	Total	\$33.88

Source: Utility's cost justification documentation.

Premises Visit

The premises visit charge is levied when a service representative visits premises at the customer's request for complaint resolution and the problem is found to be the customer's responsibility. In addition, the premises visit can be levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill, and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill. A premises visit requires one trip.

Based on labor and transportation to and from the service territory, staff recommends a premises visit charges of \$18.60 for normal hours and \$22.50 for after hours. Staff's calculations are shown below in Table 3-4.

**Table 3-4
 Premises Visit Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$18.00/hr x 1/4hr)	\$4.50	Labor (Administrative) (\$18.00/hr x 1/4hr)	\$4.50
Labor (Field) (\$17.25/hr x 1/3 hr)	\$5.75	Labor (Field) (\$25.88/hr x 1/3 hr)	\$8.63
Transportation (\$0.535/mile x 14 miles-to/from)	\$7.49	Transportation (\$0.535/mile x 14 miles-to/from)	\$7.49
Mark up for RAF (4.5%)	\$0.80	Mark up for RAF (4.5%)	\$1.82
Total	\$18.54	Total	\$22.44

Source: Utility's cost justification documentation.

Below, in Table 3-5, are the Utility's requested and staff's recommended miscellaneous service charges.

**Table 3-5
Miscellaneous Service Charges**

	Utility Requested	Staff Recommended	
	Normal and After Hours	Normal Hours	After Hours
Initial Connection Charge	\$30.00	\$18.60	\$21.60
Normal Reconnection Charge	\$30.00	\$29.40	\$33.90
Violation Reconnection Charge	\$30.00	\$29.40	\$33.90
Premises Visit Charge (in lieu of Disconnection)	\$23.00	\$18.60	\$22.50

Conclusion

OLU's request to implement miscellaneous service charges should be approved. The charges should be effective on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 4: What are the appropriate initial customer deposits for Orange Land Utilities, LLC ?

Recommendation: The appropriate initial customer deposit for water service should be \$42 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 approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C. (Friedrich)

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 a utility and, ultimately, the general body of ratepayers. Historically, the Commission has set initial customer deposits equal to two times the average estimated bill.⁷ Currently, the Utility does not have approved initial customer deposits in place. Based on the average water demand, the appropriate initial customer deposit should be \$42 to reflect an average residential customer bill for two months.

Based on the above, staff recommends that the appropriate water initial customer deposit should be \$42 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 approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C.

⁷Order 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 5: Should Orange Land Utilities, LLC be authorized to collect Non-Sufficient Funds Charges (NSF)?

Recommendation: Yes. OLU should be authorized to collect NSF charges. Staff recommends that OLU revise its tariffs to reflect the NSF charges currently set forth in Section 68.065, F.S. The NSF charges should be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. Furthermore, the charges should not be implemented until staff has approved the proposed customer notice. OLU should provide proof of the date the notice was given within 10 days of the date of the notice. (Friedrich)

Staff Analysis: Section 367.091, F.S., requires rates, charges, and customer service policies to be approved by the Commission. The Commission has authority to establish, increase, or change a rate or charge. Staff believes that OLU should be authorized to collect NSF charges consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

- (1) \$25, if the face value does not exceed \$50,
- (2) \$30, if the face value exceeds \$50 but does not exceed \$300,
- (3) \$40, if the face value exceeds \$300,
- (4) or five percent of the face amount of the check, whichever is greater.

Approval of NSF charges is consistent with prior Commission decisions.⁸ Furthermore, NSF charges place the cost on the cost-causer, rather than requiring that the costs associated with the return of the NSF checks be spread across the general body of ratepayers. As such, OLU should be authorized to collect NSF charges for its water system. Staff recommends that OLU revise its tariff sheet to reflect the NSF charges currently set forth in Section 68.065, F.S. The NSF charges should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. Furthermore, the NSF charges should not be implemented until staff has approved the proposed customer notice. OLU should provide proof of the date the notice was given within 10 days of the date of the notice.

⁸Order Nos. PSC-14-0198-TRF-SU, issued May 2, 2014, in Docket No. 140030-SU, *In re: Request for approval to amend Miscellaneous Service charges to include all NSF charges by Environmental Protection Systems of Pine Island, Inc.*; and PSC-13-0646-PAA-WU, issued December 5, 2013, in Docket No. 130025-WU, *In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.*

Issue 6: Should Orange Land Utilities, LLC's requested meter tampering charge be approved?

Recommendation: Yes. OLU's request to implement a \$50 meter tampering charge should be approved. The charge should be effective for services rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. OLU should provide proof of the date notice was given within 10 days of the date of the notice. (Friedrich)

Staff Analysis: The Utility requested a \$50 charge to recover the cost of changes in piping on equipment necessary as a result of meter tampering. Rule 25-30.320(2)(i), F.A.C., provides that a customer's service may be discontinued without notice in the event of tampering with the meter or other facilities furnished or owned by the Utility. In addition, Rule 25-30.320(2)(j), F.A.C., provides that a customer's service may be discontinued in the event of an unauthorized or fraudulent use of service. The rule allows the Utility to require the customer to reimburse the utility an amount reasonably estimated as the deficiency in revenue resulting from the customer's fraudulent use before restoring service.

Pursuant to Rule 25-30.345, F.A.C., a utility may charge a reasonable fee to defray the cost of restoring service that was discontinued for proper cause as specified in Rule 25-30.320, F.A.C. The Commission has previously approved a meter tampering charge of \$50 for sister utilities of OLU.⁹ OLU provided the appropriate cost justification pursuant to Section 367.091, F.S. Staff believes this is reasonable and consistent with prior Commission decisions and should be approved. However, the charge is appropriate only where an investigation reveals evidence of meter tampering.

Based on the above, staff recommends that OLU's request to implement a \$50 meter tampering charge should be approved. The charge should be effective for services rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

⁹Order Nos. PSC-14-0058-FOF-WU, in Docket No. 130250-WU, dated January 27, 2014, *In re: Application for approval of miscellaneous service charges in Pasco County, by Holiday Gardens Utilities, Inc.* and PSC-14-0016-TRF-WU, in Docket No. 130251-WU, dated January 6, 2014, *In re: Application for approval of miscellaneous service charges in Pasco County, by Crestridge Utility Corporation.*

Issue 7: Should the Commission approve Orange Land Utilities, LLC’s request for approval of a convenience charge for customers who opt to pay their bill by debit or credit card?

Recommendation: Yes. OLU’s request for approval of a convenience charge of \$3.43 for customers who opt to pay their bill by debit or credit card should be approved. The convenience charge should be effective on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Friedrich)

Staff Analysis: Section 367.091, F.S., authorizes the Commission to establish, increase, or change a rate or charge other than monthly rates or service availability charges. The Utility is requesting a \$3.43 convenience charge and provided cost justification as required by Section 367.091, F.S. The Utility’s cost analysis breakdown for its requested charge is shown below in Table 7-1.

**Table 7-1
Convenience Charge Cost Justification**

<u>Activity</u>	<u>Cost</u>
Labor	\$0.54
Ink and Paper per Transaction	\$0.06
Credit Card Machines	<u>\$2.83</u>
Total	<u>\$3.43</u>

Source: Utility’s cost justification documentation.

The Commission recently approved a convenience charge of \$3.00 for customers who opt to pay their bill with debit or credit cards for Charlie Creek Utilities, LLC, a sister utility.¹⁰ The charge was designed to recover the cost of supplies, administrative labor, and equipment. Staff believes that the Utility’s requested charge of a \$3.43 convenience charge is reasonable for customers who opt to pay their water bill by debit or credit card. The Utility’s requested charge benefits the customers by allowing them to expand their payment options. Furthermore, this fee will insure the Utility’s remaining customers do not subsidize those customers who choose to pay using this option.

Based on the above, staff recommends that OLU’s request for approval of a convenience charge of \$3.43 for customers who opt to pay their bill by debit or credit card should be approved. The convenience charge should be effective on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

¹⁰Order No. PSC-16-0043-PAA-WU, in Docket No. 150186-WU, dated January 25, 2016, *In re: Application for certificate to operate a water utility in Hardee County by Charlie Creek Utilities, LLC.*

Issue 8: Should Orange Land Utilities, LLC's request to implement a \$5.25 late payment charge be approved?

Recommendation: Yes. OLU's request to implement a \$5.25 late payment charge should be approved. The Utility should be required to file a proposed customer notice and tariff to reflect the Commission-approved charge. The approved charge should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Friedrich)

Staff Analysis: The Utility is requesting a \$5.25 late payment charge to recover the cost of supplies and labor associated with processing late payment notices. The Utility's request for a late payment charge was accompanied by its reason for requesting the charge, as well as the cost justification required by Section 367.091, F.S. In its cost justification, OLU's total cost for a late payment charge is \$5.28, but OLU is requesting this charge to be rounded down to \$5.25. Staff believes OLU's requested late payment charge of \$5.25 is appropriate. OLU's labor cost of \$4.75 accounts for the office personnel time to search, determine, and process delinquent accounts. The provided justification by OLU also includes costs for supplies and postage for printing and sending out late payment notices. OLU's cost basis for the late payment charge is shown below in Table 8-1.

**Table 8-1
Late Payment Charge Cost Justification**

Activity	Cost
Labor	\$4.75
Supplies	0.06
Postage	0.47
Total Cost	<u>\$5.28</u>

Source: Utility's cost justification documentation

Since the 1990s, the Commission has approved late payment charges ranging from \$2.00 to \$7.00.¹¹ The purpose of this charge is to provide an incentive for customers to make timely

¹¹Order Nos. PSC-01-2101-TRF-WS, in Docket No. 011122-WS, issued October 22, 2001, *In re: Tariff filing to establish a late payment charge in Highlands County by Damon Utilities, Inc.*; PSC-08-0255-PAA-WS, in Docket No. 070391-WS, issued April 24, 2008, *In re: Application for certificates to provide water and wastewater service in Sumter County by Orange Blossom Utilities, Inc.*; PSC-09-0752-PAA-WU, in Docket No. 090185-WU, issued November 16, 2009, *In re: Application for grandfather certificate to operate water utility in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.*; PSC-10-0257-TRF-WU, in Docket No. 090429-WU, issued April 26, 2010, *In re: Request for approval of imposition of miscellaneous service charges, delinquent payment charge and meter tampering charge in Lake County, by Pine Harbour Water Utilities, LLC.*; and PSC-11-0204-TRF-SU, in Docket No. 100413-SU, issued April 25, 2011, *In re: Request for approval of tariff amendment to include a late fee of \$14.00 in Polk County by West Lakeland Wastewater.* PSC-14-0105-TRF-WS, in

payments and to place the cost burden of processing delinquent accounts solely upon those who are cost causers.

Based on the above, OLU's request to implement a \$5.25 late payment charge should be approved. The Utility should be required to file a proposed customer notice and tariff to reflect the Commission-approved charge. The approved charge should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 9: Should this docket be closed?

Recommendation: The docket should remain open pending staff's verification that the revised tariff sheets and customer notice have been filed by Orange Land Utilities, LLC. and approved by staff. If a protest is filed within 21 days of the issuance date of the Order, the tariff sheets should remain in effect with the charges held subject to refund pending resolution of the protest. If no timely protest is filed, a consummating order should be issued and, once staff verifies that the notice of the charge has been given to customers, the docket should be administratively closed. (Trierweiler)

Staff Analysis: The docket should remain open pending staff's verification that the revised tariff sheets and customer notice have been filed by Orange Land Utilities, LLC. and approved by staff. If a protest is filed within 21 days of the issuance date of the Order, the tariff sheets should remain in effect with the charges held subject to refund pending resolution of the protest. If no timely protest is filed, a consummating order should be issued and, once staff verifies that the notice of the charges has been given to customers, the docket should be administratively closed.

**Orange Land Utilities, LLC
Pasco County**

DESCRIPTION OF TERRITORY SERVED

SECTION 35, TOWNSHIP 25 SOUTH, RANGE 16 EAST, PASCO COUNTY, FLORIDA

THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 LESS AND EXCEPT THE NORTH 375 FEET AND THE EAST 50 FEET OF THE SOUTH 945 FEET AND THE SOUTH 30 FEET OF THE WEST 1270 FEET

FLORIDA PUBLIC SERVICE COMMISSION

**Authorizes
Orange Land Utilities, LLC.
Pursuant to
Certificate Number 288-W**

To provide water service in Pasco County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, 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>
Order No. 7790	10/26/1976	760763-W	Original Certificate
*	*	160169-WU	Transfer of Certificate

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

**Orange Land Utilities, LLC
 Monthly Water Rates**

Residential and General Service

Base Facility Charge by Meter Size

5/8" x 3/4"	\$14.70
3/4"	\$22.05
1"	\$36.75
1 1/2"	\$73.51
2"	\$117.62
3"	\$235.23
4"	\$367.55
6"	\$735.09

Charge per 1,000 gallons

0-5,000 gallons	\$2.12
Over 5,000 gallons	\$3.13

Initial Customer Deposits*

	<u>Residential Service</u>	<u>General Service</u>
5/8" x 3/4"	\$42	2x the average estimated bill
All other meter sizes	2x the average estimated bill	2x the average estimated bill

Miscellaneous Service Charges*

	<u>Normal Hours</u>	<u>After Hours</u>
Initial Connection Charge	\$18.60	\$21.60
Normal Reconnection Charge	\$29.40	\$33.90
Violation Reconnection Charge	\$29.40	\$33.90
Premises Visit Charge (in lieu of disconnection)	\$18.60	\$22.50
Late Payment Charge		\$5.25
NSF Check Charge	Pursuant to Statute 68.065, F.S.	
Convenience Charge		\$3.43
Meter Tampering Charge		\$50.00

Service Availability Charges

Customer Connection (Tap-in) Charge

5/8 x 3/4"	\$100.00
1"	\$160.00

*The new owner is requesting initial deposits and miscellaneous service charges, which include late payment, NSF, convenience, and meter tampering charges on a prospective basis

**Orangeland Water Supply
Water System
Schedule of Net Book Value as of May 1, 2016**

Description	Balance Per Utility	Adjustments	Staff Recommendation
Utility Plant in Service	\$0	\$50,816	\$50,816
Land & Land Rights	0	1,000	1,000
Accumulated Depreciation	0	(45,625)	(45,625)
CIAC	0	(7,350)	(7,350)
Amortization of CIAC	<u>0</u>	<u>6,117</u>	<u>6,117</u>
Total	<u>\$0</u>	<u>\$4,958</u>	<u>\$4,958</u>

**Explanation of Staff's Recommended
Adjustments to Net Book Value as of May 1, 2016**

Explanation	Amount
A. Utility Plant in Service To reflect appropriate amount of utility plant in service.	<u>\$50,816</u>
B. Land & Land Rights To reflect appropriate amount of Land & Land Rights.	<u>\$1,000</u>
C. Accumulated Depreciation To reflect appropriate amount of accumulated depreciation.	<u>(\$45,625)</u>
D. Contributions-in-Aid-of-Construction (CIAC) To reflect appropriate CIAC.	<u>(\$7,350)</u>
E. Accumulated Amortization of CIAC To reflect appropriate amount of accumulated amortization of CIAC.	<u>\$6,117</u>
Total Adjustments to Net Book Value as of May 1, 2016.	<u>\$4,958</u>

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: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Ollila) *S.O. EST*
Office of the General Counsel (Brownless) *[Signature]*

RE: Docket No. 160242-EU – Joint petition for approval of territorial agreement in Alachua County by Clay Electric Cooperative, Inc. and the City of Newberry.

AGENDA: 02/07/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Patronis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2017 JAN 26 AM 9:38
COMMISSION
CLERK

Case Background

On December 7, 2016, Clay Electric Cooperative, Inc. (Clay) and the City of Newberry (Newberry) filed a joint petition for approval of a territorial agreement (proposed agreement) in Alachua 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 C, respectively (due to the voluminous nature of the exhibits, they have not been attached to this recommendation). The joint petitioners' territorial agreement was approved by the Commission in 1991 and amended in 2001 (current agreement).¹ The current agreement expired on September 18, 2009. The joint petitioners stated that they continued to

¹ Order No. 25080, issued September 18, 1991, in Docket No. 910678-EU, *In re: Joint Petition of Clay Electric Cooperative, Inc. and City of Newberry, Florida for approval of territorial agreement*; Order No. PSC-01-0566-PAA-EU, issued March 12, 2001, in Docket No. 001834-EU, *In re: Joint petition for approval of amendment to territorial agreement between Clay Electric Cooperative, Inc. and City of Newberry*.

Docket No. 160242-EU

Date: January 26, 2017

abide by the current agreement after its expiration. The joint petitioners responded to staff's data request on January 5, 2017. 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 Clay and Newberry?

Recommendation: Yes, the Commission should approve the proposed territorial agreement between Clay and Newberry. (Ollila)

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 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.²

The petitioners stated that the proposed agreement was entered into primarily to replace the expired agreement. The proposed agreement includes the exchange of service areas where each petitioner believes it can provide better service. These service areas are, for the most part, undeveloped and on the edge of each petitioner's respective territory. Two customers will be transferred from Clay to Newberry under the proposed agreement. All facilities to be transferred under the proposed agreement are secondary service facilities (i.e., the connection of service drops from the transformer to the meter). The joint petitioners stated that due to the age and condition of the facilities, there will not be a purchase price for the facilities. The duration of the proposed agreement is an initial term of 30 years. Five-year automatic renewals will follow the initial term, unless Clay or Newberry notifies the other in writing one year in advance of the expiration of the initial term or any subsequent five-year renewal.

The proposed transfer of two customers results from combining a section of land currently served by Clay and Newberry. A development with residential and retail commercial use is planned for this land and the joint petitioners agree that the development is best served by one utility and that Newberry should serve the development. As a result of this proposed transfer, two Clay customers will be transferred to Newberry. One customer receives residential service on a farm and the other customer, the construction company for the development, is a general service commercial customer. Pursuant to Rule 25-6.0440(1)(d), F.A.C., letters were sent to the customers on November 14, 2016, advising them of the proposed transfer and the rate change; no responses have been received. The rate comparison for the residential customer is \$111.90 for Clay and \$113.50 for Newberry (1,000 kWh per month). The rate comparison for the general service customer is \$171.05 for Clay and \$181.80 for Newberry (1,500 kWh per month). Clay will refund any deposits either as a credit on the customer's final bill or send a check refunding the deposit. The joint petitioners anticipate the transfers will be completed within 12 months of the effective date of the order and will notify the Commission in writing if more time is needed. According to the joint petitioners, there will be no compensation for the transfer of customers.

The joint petitioners assert that the proposed agreement will avoid duplication of services and wasteful expenditures and will protect the health and safety of the public from potentially

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

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 Clay and Newberry 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 Clay and Newberry creates no detriment and is in 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 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Brownless)

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.

Item 10

State of Florida



Public Service Commission

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

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

DATE: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Guffey) SKG EJD PPO
Office of the General Counsel (Taylor) WDT JEC

RE: Docket No. 160245-EI – Petition for approval of a new optional pilot LED streetlight tariff, by Florida Power & Light Company.

AGENDA: 02/07/17 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 02/16/17 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2017 JAN 26 AM 9:07
COMMISSION
CLERK

Case Background

On December 16, 2016, Florida Power and Light Company (FPL) filed a petition for approval of a new optional pilot LED Streetlight Tariff (LT-1) and accompanying LED Streetlight Agreement (LT-1 Agreement). The term of the proposed pilot program is three years, from 2017-2019, and the program will begin in the southern portion of FPL's service territory (Miami-Dade and Collier counties) and then expand northward over a 24-month period. This petition is consistent with FPL's 2016 rate case settlement which permits the filing of optional tariffs.¹ The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

¹ Order No. PSC-16-0560-AS-EI, issued December 15, 2016, in Docket No. 160021-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

Discussion of Issues

Issue 1: Should FPL's proposed optional pilot LED streetlight tariff (LT-1) and accompanying LT-1 Agreement be suspended?

Recommendation: Yes. Staff recommends that the LT-1 tariff and accompanying LT-1 Agreement be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff and agreement proposals. (Guffey)

Staff Analysis: Staff recommends that the LT-1 tariff and accompanying LT-1 Agreement be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposals.

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

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the Commission decision on the proposed optional pilot LED streetlight tariff (LT-1) and the accompanying LT-1 Agreement. (Taylor)

Staff Analysis: This docket should remain open pending the Commission decision on the proposed optional pilot LED streetlight tariff (LT-1) and the accompanying LT-1 Agreement.

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: January 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Norris, Frank, Sowards)
Division of Economics (Friedrich, Hudson, Johnson)
Division of Engineering (Graves, Hill)
Office of the General Counsel (Mapp, Crawford)

Handwritten signatures and initials: D.F.A., C.R.P., ALM, C.A.J. P.D., P.G., M.A.S.

RE: Docket No. 150071-SU – Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.

AGENDA: 02/07/17 – Regular Agenda – Post Hearing Decision – Participation is limited to Commissioners and staff

COMMISSIONERS ASSIGNED: Brown, Graham, Patronis

PREHEARING OFFICER: Patronis

CRITICAL DATES: 8-Month Effective Date Waived Through 02/07/17

SPECIAL INSTRUCTIONS: None

Table of Contents

Issue	Description	Page
	Case Background.....	4
1	Dropped	5
2	Two-Phase Revenue Requirement (Norris, Graves)	6
3	Test Year (Norris, Graves)	9
4	Quality of Service (Hill)	16
5	Audit Rate Base Adjustments (Norris).....	20
6	Plant-in-service (Graves, Norris, Frank)	22
7	Accumulated Depreciation (Norris, Frank)	27
8	Contributions in Aid of Construction (Norris)	30
9	Accumulated Amortization of CIAC (Norris).....	34
10	Construction Work in Progress (Norris).....	36
11	Used & Useful (Hill, Norris)	38
12	Working Capital (Norris)	42
13	Rate Base (Norris)	45
14	Capital Structure (Norris)	46
15	Return on Equity (Norris).....	49
16	Long-term Debt (Norris)	51
17	Cost of Capital (Norris)	53
18	Harbor Shores Customer Classification (Johnson).....	54
19	Billing Determinants (Friedrich)	57
20	Miscellaneous Service Revenue (Friedrich).....	60
21	Test Year Revenues (Friedrich).....	63
22	Audit NOI Adjustments (Norris).....	65
23	AWT O&M Expense (Hill, Graves, Norris)	66
24	Pro Forma Contractual Services (Hill, Sowards, Norris)	72
25	Green Fairways (Sowards, Norris)	74
26	Rate Case Expense (Frank, Norris)	76
27	Accounting Fees to Restate Annual Reports (Sowards, Norris).....	84
28	Last Stand Litigation Fees (Norris)	86
29	Depreciation Expense (Norris, Frank).....	90
30	Taxes Other Than Income (Norris)	93
31	Revenue Requirement (Norris).....	95
32	Rates & Rate Structures (Johnson).....	96
33	Reuse Service (Friedrich)	100
34	Miscellaneous Service Charges (Friedrich).....	103
35	NSF Charges (Friedrich)	108
36	Late Payment Charge (Friedrich)	109
37	Lift Station Charge (Friedrich).....	112
38	Rate Implementation (Johnson, Norris)	113
39	Refund (Norris)	115
40	Service Availability Charges (Johnson)	118
41	Dropped	119
42	Billing According to Tariffs (Friedrich).....	120

43	Four-Year Rate Reduction (Friedrich, Frank)	123
44	Commission-Ordered Adjustments (Norris)	125
45	Close Docket (Mapp)	126
	Schedule No. 1-A	127
	Schedule No. 1-B.....	128
	Schedule No. 2.....	129
	Schedule No. 3-A	130
	Schedule No. 3-B.....	131
	Schedule No. 4.....	132
	Appendix	133

Case Background

K W Resort Utilities Corporation (KWRU or Utility) is a Class A Utility providing wastewater service to approximately 2,061 customers in Monroe County. Water service is provided by the Florida Keys Aqueduct Authority (FKAA). Rates were last established for this Utility in its 2007 rate case.¹ According to the Utility's 2014 Annual Report, KWRU had operating revenues of \$1,479,307 and operating expenses of \$1,199,672. On July 1, 2015, the Utility filed its application for the rate increase at issue. KWRU requested that the application be processed using the Proposed Agency Action (PAA) procedure. The test year established for final rates was the 13-month average period ended December 31, 2014.

On February 24, 2016, the Office of Public Counsel (OPC) filed a Notice of Intervention in this docket, and Order No. PSC-16-0114-FOF-SU acknowledging intervention was issued on March 18, 2016. Subsequently, by Order No. PSC-16-0123-PAA-SU (PAA Order), issued March 23, 2016, the Commission approved a two-phased rate designed to recover a wastewater revenue requirement of \$2,238,046 in Phase I and \$2,485,904 in Phase II. On April 13, 2016, OPC and Monroe County (County) timely filed protests of the PAA Order. By letter dated April 18, 2016, KWRU gave notice that it elected to put the Phase I rates approved in the PAA Order into effect during the pendency of the administrative hearing pursuant to Section 367.081(8), Florida Statutes (F.S.).²

On April 18, 2016, Harbor Shores Condominium Unit Owners Association, Inc. (Harbor Shores) timely filed a cross-petition. On April 21, 2016, KWRU timely filed a cross-protest. On April 26, 2016, the Harbor Shores' representative was granted qualified representative status.³

A formal evidentiary hearing and service hearing were held November 7-8, 2016, in Key West. The parties filed briefs on December 9, 2016.

This recommendation addresses the Utility's final requested rates. The Commission has jurisdiction pursuant to Sections 367.081, F.S.

Approved Stipulations

The Commission previously approved stipulated adjustments and partially stipulated issues. The stipulated issues approved by the Commission at the Technical Hearing held on November 7-8, 2016 are identified later in the recommendation as "Stipulated" in sequential order of the approved numbering of the issues, as reflected in the Prehearing Order No. PSC-16-0509-PHO-SU. Also, a consolidated list of all stipulations is attached in the Appendix.

¹ Order No. PSC-09-0057-FOF-SU, issued January 27, 2009 in Docket No. 070293-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.*

² Document No. 02205-16

³ Order No. PSC-16-0168-FOF-OT, issued April 26, 2016, in Docket No. 160008-OT, *In re: Applications for qualified representative status.*

Discussion of Issues

Issue 1: DROPPED.

Issue 2: Is a two-phased revenue requirement calculation appropriate in this docket?

Recommendation: No, a two-phased revenue requirement is not appropriate. (Norris, Graves)

Position of the Parties

KWRU: The wastewater treatment plant expansion will be completed by the time the rates approved in this docket will be effective and thus there should be a single revenue requirement implemented without phasing.

OPC: Yes. A two-phased approach recognizes proper matching of revenues and expenses before and after the plant expansion is in-service. Phase I is appropriate for calculating a refund of PAA Phase I rates and Phase II is appropriate for establishing final rates. Including the requested growth-related increases, without the related corresponding growth-related offsets, will overstate the revenues and earnings received by the Utility, violate the test year matching principle, and result in unfair and unjust rates.

County: Yes. To ensure that customers pay fair, just, and reasonable rates, the Commission must determine revenue requirements for the period of time during which the PAA Rates will be in effect before the new permanent rates become effective, and also determine the revenue requirements for the period starting when the new permanent Phase II Rates become effective.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In its brief, KWRU asserted that the wastewater treatment plant improvements are scheduled to be substantially complete by early March 2017, and that the vacuum tank was projected to be on-line by the end of 2016. (KWRU BR 2-3) The Utility stated that the timing of the PAA Order, issued March 23, 2016, justified a two-phased rate increase because it was 11 months before the plant was expected to be in service. (KWRU BR 2) Due to the protest and timing of the final order, KWRU concluded that this justification no longer exists. (KWRU BR 2) KWRU witness Swain testified that by the time the Commission makes its decision, the level of construction work in progress (CWIP) will be high enough to eliminate the possibility of a refund. (KWRU BR 3)

OPC

OPC argued that a two-phased rate increase is appropriate for this rate case as the Commission recognized in its PAA Order. (OPC BR 4-5) OPC asserted that the Commission should establish a final Phase I rate increase to recognize the revenue requirement from the date the PAA Phase I rates were implemented until the plant expansion is placed into service. (OPC BR 4-5) OPC stated that, if the post-PAA protest revenue requirement is lower than the PAA Phase I revenue requirement, then refunds with interest to the customers can be determined. (OPC BR 5)

OPC also argued that a Phase II revenue requirement should be determined to set rates on a prospective basis after the new plant expansion is in service. (OPC BR 4-5) OPC elaborated that a two-phased approach correctly recognizes a proper matching of revenues and expenses for the time periods rates will be in place. (OPC BR 4-5) OPC contended that, if only one (single-phase) revenue requirement were to be implemented, the inclusion of pro forma plant and higher projected expenses would not match the historical timeframe before the plant becomes operational and used and useful to KWRU's customers. (OPC BR 4)

County

The County expressed that KWRU has been collecting rates (Phase I Rates or the PAA Rates) since approximately April 15, 2016 and argued that the new permanent rates should become effective when new assets are actually serving customers, which is expected to be in March or April 2017. (County BR 8-9) The County contended that it is critical to setting fair, just, and reasonable rates and that the Utility's authorized revenue requirement recover only the costs incurred to provide service when that service is provided. (County BR 8-9)

The County further argued that, because the PAA Rates will be in effect for approximately one year before the new permanent rates become effective and the new wastewater treatment plant (WWTP) will not be providing service to customers before March or April 2017, it is necessary to have a two-phased revenue requirement for KWRU in this docket. (County BR 8-9) The County elaborated that the revenue requirement for the period before the new WWTP comes into service and the revenue requirement for the period starting when the new WWTP is actually serving customers, should be determined separately. (County BR 8-9) Otherwise, the County argued, the rates collected for the current Phase I period, will not be fair, just, and reasonable, and customers will likely wind up paying more than the cost to actually serve them. (County BR 8-9) The County further asserted that the new permanent Phase II Rates must also accurately reflect the costs incurred to serve customers after the new assets are serving customers. (County BR 8-9)

Harbor Shores

In its brief, Harbor Shores agreed with OPC. (Harbor Shores BR 2)

ANALYSIS

In the PAA Order⁴, the Commission approved a two-phased revenue requirement based on three reasons: 1) the majority of the pro forma plant expansion was not complete at the time and was projected to take another year; 2) the potential for additional proceedings related to the Florida Department of Environmental Protection's (DEP) Final Order regarding KWRU's permit challenge; and 3) the concern regarding the Utility's contribution level, as it related to additional documentation of contribution in aid of construction (CIAC) collected subsequent to the test year.

OPC witness Merchant testified that OPC's revenue requirement used the same two-phase methodology the Commission approved in the PAA order, because the methodology recognized

⁴ Order No. PSC-16-0123-PAA-SU p. 2, issued March 23, 2016, in Docket No. 150071-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.*

the uniqueness of the case and the need to establish two separate revenue requirement calculations due to the length of time between the historical test year and the projected date that the pro forma plant would be placed in service. (TR 390) Witness Merchant's testimony did not directly address why she followed the PAA methodology or why two phases are appropriate. The only arguments tenuously related to the appropriateness of a test year are OPC witness Merchant's assertions that 2014 is appropriate to measure the reasonableness of the implemented, Phase I rates, and to determine potential refunds. (TR 384; TR 390) In response to OPC's recommendation of a two-phased revenue requirement, KWRU witness Swain testified that it was not appropriate to apply the final rates in a phased approach due to the near completion of the Utility's pro forma plant projects. (TR 765-766)

Just as OPC witness Merchant recognized the need to establish two separate revenue requirements in the PAA Order, it is important to reevaluate the concerns, as previously outlined, from the PAA Order to determine the appropriateness of a two-phased revenue requirement. As discussed in subsequent issues, the concerns are no longer outstanding and have been resolved due to the additional time frame of the hearing process. As KWRU witness Johnson explained, the pro forma plant expansion is scheduled to be done by the first part of March 2017. (TR 603) This estimated completion date coincides with the time frame that rates go into effect. The Final Order, *Last Stand v. KW Resort Utilities, Corp. et al.*, State of Florida Div, of Admin. Hearings, DOAH Case No. 14-5302, was issued February 24, 2015, and no further legal expenditures were associated with an appeal. (EXH 51, BSP 81; EXH 52, BSP 116; EXH 56, BSP 1563-1564) Additionally, the collection of CIAC since the test year was further examined for the purpose of matching the investment associated with the pro forma WWTP expansion.

Additionally, staff believes that the methodology discussed in Issue 39 adequately addresses the refund calculation, as it necessitates calculating a revised revenue requirement that removes adjustments that do not relate to the period that PAA rates were in effect. As such, staff recommends that a two-phased revenue requirement for final rates is not required.

CONCLUSION

Based on the above, a two-phased revenue requirement for final rates is not necessary.

Issue 3: What is the appropriate test year for establishing rates for KWRU?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: Staff recommends that adjusting the Utility's 2014 test year based on known and measurable information is reasonable and appropriate to determine a revenue requirement and rates that are representative of KWRU's current operations.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris, Graves)

Position of the Parties

KWRU: The appropriate test year is December 31, 2014 adjusted for known and measurable changes.

A. For Phase I, if applicable

OPC: The appropriate test year for Phase I rates is the historical year ending December 31, 2014, with appropriate adjustments to recognize the level of expenses needed to implement advanced wastewater treatment (AWT).

County: The most appropriate test year for establishing the Phase I revenue requirements is the 12-month period beginning on the date on which the PAA Rates became effective, which is on or about April 15, 2016.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Consistent with prior practice, a pro forma test year ending December 31, 2016, with proper adjustments is appropriate and is much more representative than using an historic 2014 test year with "cherry picking" adjustments that only increase the expense items and rates. A projected 2017 test year is the most representative for setting Phase II rates.

County: The appropriate test year for establishing Phase II Rates for KWRU is the 12-month period beginning on the date that the Utility's new WWTP achieves commercial operation and begins providing service to KWRU's customers.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

The Commission approved KWRU's request for a historic 2014 test year on March 13, 2015. As set forth in Rule 25-30.430(1), Florida Administrative Code (F.A.C.), test year approval must be challenged within 30 days of approval of the test year. (KWRU BR 4) As such, KWRU argued that any challenge related to the test year was required by rule to be submitted on or before April 12, 2015. (KWRU BR 4) The Utility added that the intervenors first raised the issue of test year appropriateness in testimony, after KWRU had filed its minimum filing requirements (MFRs) and its direct testimony in this matter, and outside the 30-day challenge period. (KWRU BR 4) The Utility cited Rule 25-30.430(1), F.A.C., which provides that an interested person may request a review of the Chairman's test year by the full Commission. KWRU noted that none of the intervenors or interested persons in this docket requested that the full Commission review the appropriateness of the Chairman's decision. (KWRU BR 4) To this point, the Utility concluded that the Commission is therefore without authority to review the Chairman's test year decision under the Rule at this juncture. (KWRU BR 4) KWRU asserted that an untimely challenge of the Commission-approved test year would constitute a violation of Rule 25-30.430, F.A.C., and a violation of the Utility's due process rights, imposing undue costs and burdens upon the applicant utility. (KWRU BR 5)

KWRU also stressed that Rule 25-30.430, F.A.C., does not provide a mechanism for anyone other than the applicant to request a projected test year. (KWRU BR 5) The Utility continued that 2015 has not been audited, nor has KWRU provided to the Commission any justification as to why a projected test year "is more representative of the utility's operations than a historical period." The Utility followed that this explanation is necessary if an applicant requests a projected period pursuant to Rule 25-30.430(2)(d), F.A.C. (KWRU BR 5) KWRU asserted that it followed the language of the rule that indicates the preference for historic test years. (KWRU BR 7) The Utility continued that the rule does not provide that any other party can provide the explanation as to why a projected test year is more representative after the test year is approved, a prerequisite for projected test year approval. (KWRU BR 7)

KWRU also refuted the intervenor's arguments regarding the "matching principle." KWRU argued that no statute or rule governing the actions of the Commission contains reference to a "matching principle." (KWRU BR 7) KWRU also noted that witness Deason admitted that historically the Commission's policy is to use historical test years for water and wastewater cases. (KWRU BR 7)

Lastly, the Utility again noted that in its last rate case, where growth was even higher, the Commission found a historic test year was appropriate. (KWRU BR 7) KWRU concluded that if the Commission were to suddenly change from that policy in the middle of this case and approve a projected test year based not on projections made at time of filing but testimony brought forth in the middle of the case, it would be in violation of the Florida Administrative Code, and the Administrative Procedure Act, Ch. 120, Florida Statutes. To this point, the Utility cited *Palm Coast Utility Corporation v. State of Florida, Florida Public Service Commission*, 743 So. 2d 482 (Fla. 1st DCA 1999). Specifically, KWRU cited the following:

The Commission acknowledges that the lot count methodology represented a departure from the methodology previously employed...[W]e reverse and remand with directions that the Commission provide an explanation, with record support, for the change in methodology in determining the used and useful portion...

(KWRU BR 7)

OPC

OPC argued that the appropriate test year for Phase I rates is the historical year ended December 31, 2014, with appropriate adjustments to recognize the level of expenses needed to implement advanced wastewater treatment (AWT). (OPC BR 6) For Phase II rates, OPC contended that a pro forma test year ended December 31, 2016, with proper adjustments, should be utilized because it is more representative than applying a historic 2014 test year that only makes adjustments to items that increase the revenue requirement and rates. (OPC BR 6)

OPC asserted that a projected 2017 test year may be the best representation of the first year after KWRU's pro forma plant expansion goes into service. (OPC BR 6) However, OPC expressed that the Utility chose not to provide the Commission or intervenors, in discovery, the level of detail necessary to create a 2017 projected test year. (OPC BR 6) OPC argued that the Commission in other cases, similar to this case, required a historical test year to be updated and projected forward when the utility was growing at an exceptionally high rate per year. (OPC BR 6)

OPC argued that the historical year ended December 31, 2014, is not the appropriate test year for setting post-protest Phase II or final rates in this proceeding. (OPC BR 6) OPC conveyed that consistent with Section 367.081, F. S., and as testified to by County witness Deason, the appropriate test year should provide a reasonable match between a utility's investment in used and useful plant in service, capital costs, operating revenues, operating expenses, and customer billing determinants so that the rates established are fair, just, compensatory, and not unduly discriminatory when the new rates are placed into service. (OPC BR 6) OPC noted that KWRU's 2014 test year with adjustments failed to include any offsetting entries that would correspond to and match its projected increases. (OPC BR 6-7) OPC concluded that an adjusted 2016 test year should be applied by the Commission in setting Phase II rates in this proceeding. (OPC BR 7)

County

The County argued that the most appropriate test year for establishing the Phase I revenue requirement is the 12-month period beginning on the date on which the PAA rates became effective, which is on or about April 15, 2016. (County BR 10) The County asserted that it is not necessary to set rates for the Phase I period, as long as the refund is properly calculated and made based on the excess of revenues collected over what the Commission determines the correct revenue requirement should have been for that period. (County BR 10)

As described by the County, Phase II rates for KWRU are the permanent rates that will be in effect from their effective date until new rates are approved in a future rate case. (County BR 10) The County continued that these Phase II rates will enable KWRU to recover the costs of its new WWTP, operation and maintenance (O&M) costs associated with the new WWTP, and the new air vacuum tank. (County BR 10)

The County contended that because the new WWTP will not be serving KWRU's customers until at least March 2017, the appropriate test year is the twelve-month period beginning when that plant goes into commercial operation and begins serving customers. (County BR 11) The County additionally opined that it would be reasonable to use calendar year 2017 as a representative test year, although that would likely understate sales considering KWRU's continuing growth. (County BR 11)

Harbor Shores

In its brief, Harbor Shores agreed with OPC's position. (Harbor Shores BR 2)

ANALYSIS

KWRU witness Swain presented testimony and exhibits supporting a revenue requirement based on a 2014 test year with pro forma adjustments for plant in-service and O&M expenses. Witness Swain testified that the Utility updated pro forma plant and O&M expenses as information became known and measurable. (TR 214) KWRU did not make adjustments to the 2014 test year as it relates to CIAC, revenues, and customer billing determinants.

OPC argued that the historical year ended December 31, 2014 is not the appropriate test year for setting post-protest Phase II or final rates in this proceeding. (OPC BR 6) OPC conveyed that consistent with Section 367.081, F.S., and as testified to by County witness Deason, the appropriate test year should provide a reasonable match between a utility's investment in used and useful plant in service, capital costs, operating revenues, operating expenses, and customer billing determinants so that the rates established are fair, just, compensatory and not unduly discriminatory when the new rates are placed into service. (OPC BR 6; TR 531) Witness Merchant testified that including growth-related plant and expense pro forma adjustments without including corresponding adjustments for CIAC, additional customer bills, and wastewater treatment consumption, will overstate the revenues and earnings received by the Utility when the new rates are implemented. (TR 305) County witness Deason additionally asserted that if rates are not based upon the most appropriate test year information, a utility could quickly experience either underearnings or overearnings soon after the new rates are implemented. (TR 529)

OPC witness Merchant stated that the best representative test year would have been a 2017 projected test year, after the pro forma plant expansion goes into service. (TR 308) However, she testified that the Utility had not provided the necessary information to properly establish a 2017 test year. (TR 308-309) Witness Merchant testified that the Commission, in cases similar to this case, required a historical test year to be updated and projected forward when the utility had significant growth. (OPC TR 310) OPC cited the rate cases for Martin Downs Utilities, Inc.⁵ (Martin Downs) and Burkim Enterprises, Inc.⁶ (Burkim) to support its argument. (OPC TR 309-311) In the Burkim rate case, the Commission found that it was appropriate to use a projected test year when the Utility was growing at an exceptionally high rate per year. (TR 309) The

⁵ Order No. 15725, issued March 23, 1987, in Docket No. 84315-WS, *In re: Application of Martin Downs Utilities, Inc. for a rate increase in Martin County.*

⁶ Order No. PSC-01-2511-PAA-WS, issued December 24, 2001, in Docket No. 010396, *In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.*

Commission also found that it was appropriate to use a projected test year in the Martin Downs rate case based on the rapid growth that Martin Downs was experiencing. (TR 310) OPC concluded that an adjusted 2016 test year should be applied by the Commission in setting Phase II rates in this proceeding. (TR 311) As such, witness Merchant testified that an alternative 2016 projected balance with proper adjustments can be utilized. (TR 309)

KWRU witness Swain used OPC's premise to alternatively conclude that if the expected growth is not found to be "exceptionally high" or "significant," then the conclusion must be that a historical test year is correct. (TR 761) To this point, witness Swain testified that in its last rate case, KWRU presented a growth calculation that exceeded the growth calculation presented in this docket. (KWRU TR 762) Witness Swain additionally asserted that the test year used by the Utility in that case was the historic test year and the Commission and OPC accepted the historic test year without comment. (TR 762) Witness Swain concluded that there is no basis for the use of a projected test year in this instance seeing that the growth rate in this case is less than the previous case. (KWRU BR 5)

Witness Swain testified that the Burkim and Martin Downs rate cases cited by OPC witness Merchant are inapplicable to the circumstances of this case. (TR 761-762) Witness Swain asserted that the Burkim rate case was a staff-assisted rate case, and is not subject to the rigor of a contested rate case. (TR 761) KWRU witness Swain conveyed that the Commission has a mechanism in place to address overearnings, the concern in the Burkim rate case, while there is no mechanism for KWRU to address potential underearning other than a rate increase application. (TR 761-762)

As explained by witness Swain, the Commission based its use of a projected test year on the fact that the utility was anticipated to "continue to experience a rapid growth of demand for its services." (TR 762) KWRU asserted that a growth rate over 10 percent, which is higher than what is projected in this case, was not found to warrant the use of a projected test year in KWRU's last rate case. (TR 762) Regarding the Martin Downs Case, the Utility concluded that the precedence of that case is stale given its age and the fact that there has been a more recent proceeding involving KWRU in which a growth rate higher than projected in this docket was not found to warrant the use of a projected test year. (TR 762)

Rule 25-30.430(1), F.A.C. states in part "a utility shall submit to the Commission a written request for approval of a test year . . . [w]ithin 30 days of the Chairman's approval or disapproval of a test year, upon request of any interested person the full Commission may review the Chairman's test year decision." KWRU noted that none of the intervenors or interested persons in this docket requested that the full Commission review the appropriateness of the Chairman's decision within the 30 days immediately following the Chairman's approval. (KWRU BR 4) KWRU argued that Rule 25-30.430, F.A.C. does not allow anyone other than the Utility to propose a projected test year. (KWRU BR 4) KWRU further argued that because a challenge to the Chairman's decision was not made within 30 days, OPC's introduction of a projected test year within its testimony was untimely and that "[t]he Commission is thus without authority to review the Chairman's test year decision under the [r]ule at this juncture." (KWRU BR 4) Staff disagrees with KWRU's interpretation of the rule and the authority of the Commission to review the appropriateness of the test year approved by the Chairman.

It has been established in previous Commission orders that the Chairman's approval of a utility's test year is an interim decision only, subject to the Commission's final decision approving or disapproving the use of a particular test year during the ratemaking proceeding.⁷ The Commission stated in Order No. PSC-92-0197-FOF-WS,⁸ that any party to a proceeding has "the opportunity to explore its allegations and the appropriateness of the test years through discovery, testimony, and cross-examination during the hearing process." Parties also have the ability to propose alternative test years to the one initially approved by the Chairman. The Commission has stated that a party to a proceeding, being afforded all rights under Commission rules, has the ability to raise all relevant issues and present all relevant information through the hearing process; "[t]his includes the right to raise the issue of what test year is appropriate."⁹ "We find that parties whose substantial interests may be affected by the selection of a particular test year will have ample opportunity to challenge the appropriateness of the test year at the rate case hearing before that final decision is made . . ."¹⁰

The Utility's 2014 test year in this case would have ended more than two years prior to the conclusion of the case. Witness Swain testified that such a delay can be an advantage as updates can be made as actual information is obtained. (TR 213) On January 1, 2016, the Utility implemented changes in operations to meet AWT standards, which is the basis of its pro forma O&M expense request. (TR 308) The record evidence includes actual data for the 2014 test year, 2015, and for the first 8 months of 2016. Using the actual data for 2015 and 2016, staff believes reasonable adjustments to the 2014 test year can be made to establish an updated test year that is representative of the Utility's current operations. Staff also believes that adjustments beyond those made by KWRU are necessary to be consistent in the use of known information. As an example, to make O&M adjustments based on actual data without giving consideration to the actual amount of wastewater treated during that same time period would be inconsistent.

In summary, both KWRU and OPC support making adjustments to the 2014 test year. The point of deviation lies in what information should be updated. Staff concludes that making consistent adjustments to the 2014 test year, based on known and measurable information, is the most appropriate approach to determining just and fair rates. Staff's recommended approach is similar, though not identical, to the approach taken by OPC. The specific adjustments made by OPC and KWRU, as well as staff's recommended adjustments, are discussed in the relevant issues that follow.

⁷ Order No. PSC-92-0205-FOF-WS, issued April 14, 1992, in Docket No. 911030-WS, *In re: Application for Rate Increase in Brevard County by General Development Utilities, Inc.(Port Malabar Division)*; Order No. 25484, issued December 17, 1991, in Docket No. 910980-TL, *In re: Application for a Rate Increase by United Telephone Company of Florida*; Order No. 25292, issued November 4, 1991, in Docket No. 910890-EI, *In re: Petition for a Rate Increase by Florida Power Corporation*.

⁸ Order No. PSC-92-0197-FOF-WS, issued April 13, 1992, in Docket No. 911067-WS, *In re: Application for a Rate Increase by General Development Utilities, Inc. in Charlotte, DeSoto and Sarasota Counties*.

⁹ *Id.*

¹⁰ Order No. 25292

A test year is used by ratemaking bodies to measure the adequacy and reasonableness of a utility's rates.¹¹ The primary ratemaking goal is to establish fair and reasonable rates for the ratepayer that provide the utility with an opportunity to earn a fair rate of return.¹² Ratemaking is prospective in nature, and it is the Commission's practice to recognize known and measurable changes.¹³ Thus, if necessary, adjustments are made for known and measurable changes to test year amounts. Therefore, staff recommends that adjusting the Utility's 2014 test year based on known and measurable information is a reasonable approach to establish a revenue requirement and rates that are representative of KWRU's current operations.

As noted above, both KWRU and OPC support making adjustments to the 2014 test year. The point of deviation lies in what information should be updated. Staff agrees with County witness Deason, if rates are not based upon the most appropriate test year information, a utility could quickly experience either underearnings or overearnings soon after the new rates are implemented. (TR 529) Although underearnings or overearnings may occur after final rates are set, staff believes that making consistent adjustments, based on known and measurable information, to the 2014 test year is the most appropriate approach to determining just and fair rates. Staff's recommended approach is similar, though not identical, to the approach recommended by OPC. The specific adjustments made by OPC and KWRU, as well as additional adjustments supported by the record, are discussed in the relevant issues that follow.

CONCLUSION

Based on the above, staff believes that adjusting the Utility's 2014 test year based on known and measurable information is reasonable and appropriate to determine a revenue requirement and rates that are representative of KWRU's current operations.

¹¹ *Gulf Power Co. v. Bevis*, 289 So. 2d 401 (Fla. 1974).

¹² *United Telephone Company of Florida v. Mann*, 403 So. 2d 962, 966 (Fla. 1981).

¹³ Order Nos. PSC-13-0197-FOF-WU, p. 8, issued May 16, 2013, in Docket No. 110200-WU, *In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.*; PSC-12-0179-FOF-EI, pp. 11-12, issued April 3, 2012, in Docket No. 110138-EI, *In re: Petition for increase in rates by Gulf Power Company*; PSC-11-0199-PAA-WU, p. 9, issued April 22, 2011, in Docket No. 100149-WU, *In re: Application for increase in water rates in Lee County by Ni Florida, LLC*.

Issue 4: Is the quality of service provided by KWRU satisfactory?

Recommendation: Yes. Staff recommends that the quality of KWRU's product and the condition of the wastewater treatment facilities is satisfactory. It appears that the Utility has attempted to address customers' concerns. Therefore, staff recommends that the overall quality of service for the KWRU wastewater system in Monroe County is satisfactory. (Hill)

Position of the Parties

KWRU: Yes.

OPC: No. The Commission should find the quality of service to be marginal if not unsatisfactory since KWRU ceased treating its wastewater to AWT standards, from 2010 to 2015. As such, KWRU pocketed the AWT money and the customers did not get what they paid for.

County: No. KWRU's quality of service is not satisfactory because KWRU failed to treat wastewater to AWT standards for approximately five years (from 2010-15) even though KWRU asked for and received pro forma plant and O&M expenses to treat to AWT standards in its 2007 rate case and even though KWRU was contractually obligated to the County to do so.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU raised five arguments to support that its quality of service should be satisfactory: 1) that no quality of service complaints were presented during the service hearing in the instant case, 2) that the odor complaint was without basis per the results of a DEP inspection, 3) that it has been prompt and proper in responding to DEP compliance issues, 4) that KWRU was relieved of the requirement to continue treating to AWT standards after the previous rate case, and 5) that it did not collect undue amounts of revenue designated for AWT treatment to the detriment of customers. Thus, KWRU recommended the Commission find the quality of service it provides to be satisfactory.

KWRU presented arguments (1) and (3) as uncontested. KWRU supported arguments (2) and (5) with the testimony of witness Johnson. (KWRU BR 7)

KWRU supported argument (4) by stating that "[t]here is no DEP or regulation [sic] or State Statute which required KWRU to treat to AWT standards until January 1, 2016." (KWRU BR 8) KWRU states that its agreement with Monroe County did not require KWRU to operate at AWT, only to "convert" its plant to AWT. In addition, they argued that "[i]f Monroe County had a real issue, it would have and should have raised the alleged breach in a timely fashion, such as during the complaint filed by KWRU against Monroe County for failure to pay funds associated with the AWT conversion. (KWRU BR 8)

KWRU supported argument (5) with testimony of witness Johnson that KWRU “did not operate at AWT... to, at least in part, save ratepayers the cost of treatment not required by law.” (KWRU BR 8) KWRU argued that its rates since 2010 did not include “the requisite costs to operate at AWT,” stating in part that “[c]hemical expenses... additional employee expenses or power, and sludge-hauling expenses were reduced to historical levels” and that “[t]he only chemicals, sludge hauling, testing, and employment awarded was related to non-AWT current operations.” (KWRU BR 8) KWRU further stated that “any argument that the utility “pocketed money” has no support in the record” and that “KWRU has not had an operating profit to date, meaning it underearned and most likely should have requested a rate case sooner.” (KWRU BR 8)

OPC

OPC raised three arguments that the quality of service should be marginal if not unsatisfactory: (1) its belief that customers have been paying for AWT treatment since 2009 yet not benefitting from such payment since 2010, (2) that KWRU ceased treatment to AWT standards in order to enhance its bottom line, and (3) that KWRU is in violation of an agreement with Monroe County to treat to AWT standards. (OPC BR 7)

OPC supported argument (1) by citing the order in the previous rate case and OPC’s cross examination of witness Johnson, during which time the witness answered to the affirmative the question “Do you agree that the Commission enacted an ordinance, No. 595-2002, that made that authorization for the company to recover its costs?” (TR 118)

OPC supported argument (2) by citing witness Johnson’s testimony that “The money that wasn’t spent on chemicals would remain within the utility.” (TR 125) OPC also stated that “[i]t is irrelevant that... KWRU [was] given an extension to January 1, 2016 to treat to AWT when the Commission expressly authorized the necessary plant and O&M expenses in rates for KWRU to treat to AWT.” (OPC BR 7)

OPC supported argument (3) by citing OPC’s cross examination of witness Johnson, during which time the witness was asked to read from the prior rate case order, which states “... Monroe County secured an agreement from the utility to convert its wastewater treatment to AWT by January 1, 2007, providing that the utility is allowed to recapture costs of its conversion to AWT and the increased operating costs by a resolution of the Monroe County Commission.” (TR 117) OPC also supported this argument by citing the prior rate case order, stating that it “expressly authorized the necessary plant and O&M expenses in rates for KWRU to treat to AWT.” (OPC BR 7)

OPC also presented a summary of customer testimony presented at the service hearing. OPC presented comments made by Monroe County Commissioner Danny Kolhage, County Mayor Heather Carruthers, Judge Richard Payne, and seven customers that the rate increase would be unaffordable for Stock Island residents. Three additional customer comments described two billing method concerns and one concern that “the proposed reuse rate was so low especially since the Key West Golf Course (an affiliate) is one of the largest reuse customers. (OPC BR 9)

County

Monroe County raised two arguments that the quality of service should be marginal if not unsatisfactory: (1) that KWRU’s failure to treat wastewater to AWT standards adversely

impacted the quality of the product and the satisfaction of the customers, and (2) that not treating to AWT standards was in violation of the 2002 CRI contract with Monroe County.

Monroe County supported argument (1) by stating that “KWRU failed to treat wastewater to AWT standards for approximately five years. This failure to meet AWT standards adversely impacted both the quality of KWRU’s product and the satisfaction of its customers with that product.” (County BR 13)

Monroe County supported argument (2) by citing witness Wilson’s direct testimony, which states “... the 2002 CRI Contract also provides that KWRU agreed to convert its system to AWT standards by January 1, 2007 if requested, and if it did so, the cost of conversion would be paid by allowing KWRU to keep \$600 out of each CRF that it collected.” (County BR 13)

Harbor Shores

In its brief, Harbor Shores agreed with OPC. (Harbor Shores BR 2)

ANALYSIS

Pursuant to Rule 25-30.433(1), F.A.C., in wastewater rate cases, the Commission shall determine the overall quality of service provided by a utility. This is derived from an evaluation of three separate components of the utility operations. These components are the quality of the utility’s product, the operational conditions of the utility’s plant and facilities, and the utility’s attempt to address customer satisfaction. In the instant case, KWRU has argued that customer comments in the record of this proceeding suggest that the Utility’s attempts to address customer satisfaction are satisfactory. OPC and Monroe County have argued that the quality of KWRU’s product has been marginal or unsatisfactory because KWRU has not treated to AWT standards. No parties presented arguments that the operational conditions of the Utility’s plant and facilities were less than satisfactory.

Quality of Utility’s Product

In a previous decision the Commission has recognized that the primary concern of a wastewater utility is the quality of the effluent discharged from the plant.¹⁴ Staff reviewed DEP inspection reports and KWRU’s effluent disposal was rated in compliance with DEP standards. (EXH 7; EXH 10) Additionally, the DEP determined that residuals were being disposed of in accordance with the facility’s permit. (EXH 7, EXH 10)

Staff also requested complaints filed with the Utility and DEP during the four year period prior to the test year, as well as the test year. One complaint, filed with DEP and the Utility, regarding the quality of KWRU’s product was identified. (EXH 109) Witness Johnson testified that the complaint was a result of a petition by Safe Harbor Marina. Witness Johnson asserted that the DEP determined that no odors were emanating outside of the Utility boundaries. (TR 706-707)

In reviewing the quality of KWRU’s product, staff also considered KWRU’s obligations under the 2002 CRI contract with Monroe County as well as DEP regulations. The 2002 CRI contract

¹⁴ Order No. PSC-99-0665-FOF-SU, issued April 6, 1999, in Docket No. 980912-SU, *In re: Application for staff-assisted rate case in Pasco County by Sky Acres Enterprises d/b/a Terrace Park Ventures.*

states that "... the 2002 CRI Contract also provides that KWRU agreed to convert its system to AWT standards by January 1, 2007." (TR 452) No evidence in the record suggests that the Utility failed to convert its system to AWT operation by January 1, 2007. Witness Johnson testified that the Utility stopped treating to AWT standards during the 2009 timeframe to save money. (TR 123-124) Witness Johnson additionally testified that he did not believe that the Utility made a profit during the 2009 through 2013 timeframe. (TR 175) If the Utility continued operation to AWT standards, KWRU may have sought a rate increase prior to the current rate case. As such, staff believes that the Utility's decision to stop treating to AWT standards was reasonable. Based on the discussion above, staff believes that the quality of KWRU's product is satisfactory.

Condition of Facilities

KWRU's service area is located in Monroe County. The wastewater treatment plant (WWTP) uses extended aeration to treat wastewater. Effluent is passed through a sand filter and disinfection is provided by chlorine gas. Effluent is disposed of through reuse service or shallow injection wells when reuse demand is not sufficient for reuse. (EXH 7)

KWRU provided DEP inspection reports dated September 2014 and March 2016. KWRU's WWTP facility was determined to be in compliance with DEP rules and regulations in both reports. (EXH 7; EXH 10) Additionally, based on Utility responses to staff discovery (dated October 2016) the Utility has no outstanding citations, violations, or consent orders on file with the DEP or the Monroe County Health Department. (EXH 51) Therefore, the condition of KWRU's facilities should be considered satisfactory.

The Utility's Attempt to Address Customer Satisfaction

A service hearing was held in Key West, Florida, on November 7, 2016. Fourteen customers provided testimony at the service hearing. The subject of the testimony provided by customers included disconnection costs, changes to contract terms, and opposition to the rate increase. Customer testimony in the record of this proceeding does not indicate a failure to address customer satisfaction. (S-TR 14-55)

In addition to receiving customer testimony at the service hearing, staff requested complaints filed with the Utility as well as complaints filed with DEP for the period January 1, 2010 through October 1, 2016. (EXH 109) One complaint, regarding odor, is discussed under the Quality of Utility's Product section. Based on the limited number of complaints in the record staff believes that the Utility's attempts to address customer satisfaction should be considered satisfactory.

CONCLUSION

Staff recommends that the quality of KWRU's product and the condition of the wastewater treatment facilities is satisfactory. It appears that the Utility has attempted to address customers' concerns. Therefore, staff recommends that the overall quality of service for the KWRU wastewater system in Monroe County is satisfactory.

Issue 5: What adjustments, if any, should be made to account for the audit adjustments to rate base in each of Staff's Audit Findings 1 through 7? (Partially stipulated)

Recommendation: The Utility's updated filing reflects the audit adjustments to rate base included in staff's Audit Findings 1 through 7. Therefore, no further adjustments are necessary. (Norris)

Position of the Parties

KWRU: Stipulation as to all but Audit Finding 6. Agree with Audit Finding 6 adjustments as contained in PAA Order.

OPC: No allowance should be made for deferred accounting fees as these costs should be disallowed. Also, any component of the deferred litigation fees should be added to CWIP in Phase I rates and should be capitalized to plant in service for Phase II.

County: Agree with OPC and with the adjustments addressed in the stipulations on rate base items agreed to by the Parties.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In its brief, KWRU cited the stipulation of Audit Findings 1-5 and 7. (KWRU BR 9) KWRU also stated that the adjustments, including Audit Finding 6, from the PAA order were appropriate. (KWRU BR 9) KWRU maintained that the deferred accounting expense associated with restating its 2007-2012 Annual Reports was properly incurred. (KWRU BR 9) KWRU witness Swain testified that the restated annual reports were not filed because the Utility was waiting the pending outcome of the current rate case in order to include any potential corrections that resulted. (TR 772) Witness Swain also testified that the appropriate accounting treatment of the litigation fees associated with the legal challenge to the Utility's permits is to amortize the expense, not capitalize it. (TR 771)

OPC

In its brief, OPC cited the stipulation of Audit Findings 1-5 and 7. (OPC BR 10) Audit Finding 6 was addressed by OPC witness Merchant's testimony which reflected adjustments to disallow all deferred accounting expense associated with restating the Utility's 2007-2012 Annual Reports and to capitalize deferred litigation fees associated with the legal challenge to KWRU's DEP permits. (TR 340-342; TR 338-339) Witness Merchant also testified that working capital should not include a corresponding allowance for either deferred accounting expense. (TR 340-342; TR 338-339)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC. (County BR 14; Harbor Shores BR 2).

ANALYSIS

Approved Stipulations 1, 2, 3, 4, 5, and 8 incorporate staff Audit Findings 1, 2, 3, 4, 5, and 7. These stipulated adjustments to rate base are set forth in the following table.

**Table 5-1
 Stipulated Adjustments to Rate Base**

Stip.	Plant	Land	Accum. Depr.	CIAC	Accum. Amort. of CIAC	CWIP	Working Capital	Total
1	(\$817,240)	\$0	\$0	\$0	\$0	\$0	\$0	(\$817,240)
2	0	0	0	0	0	303,099	0	303,099
3	0	(923)	0	0	0	0	738	(185)
4	0	0	0	297,120	(81,153)	0	0	215,967
5	0	0	(2,040)	0	0	0	0	(2,040)
8	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>26,645</u>	<u>26,645</u>
Total	<u>(\$817,240)</u>	<u>(\$923)</u>	<u>(\$2,040)</u>	<u>\$297,120</u>	<u>(\$81,153)</u>	<u>\$303,099</u>	<u>\$27,383</u>	<u>(\$273,754)</u>

KWRU witness Swain’s testimony reflected these stipulations as adjustments made to the Utility’s updated filing, along with an adjustment to reflect staff Audit Finding 6. (EXH 17, P 3) As testified by staff witness Piedra, Audit Finding 6 was a corresponding adjustment to miscellaneous deferred debits that reflected adjustments to the total costs associated with the restatement of KWRU’s 2007-2012 Annual Reports and the Last Stand permit challenge.¹⁵ (TR 554-555) The reasonableness of both expenses is discussed in Issues 27 and 28, respectively, and any corresponding adjustments to miscellaneous deferred debits are addressed in Issue 12. Therefore, staff recommends no further rate base adjustments to account for staff Audit Findings 1 through 7.

CONCLUSION

The Utility’s updated filing reflects the audit adjustments to rate base included in staff Audit Findings 1 through 7. Therefore, no further adjustments are necessary.

¹⁵ KWRU submitted an application to DEP for authorization to substantially modify its wastewater treatment plant by increasing wastewater flows. (TR 564) DEP issued a “Notice of Intent” to issue the modified permit on June 23, 2014 (TR 564); however, this action was appealed by third-party respondents on August 5, 2014. (TR 564) The case went before an Administrative Law Judge in the summer of 2015, and the Final Order, *Last Stand v. KW Resort Utilities, Corp. et al.*, State of Florida Div. of Admin. Hearings, DOAH Case No. 14-5302, was issued February 24, 2015. (EXH 51, BSP 81; EXH 52, BSP 116)

Issue 6: What is the appropriate amount of plant in service to be used in setting rates?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate test year balance of plant in service is \$16,011,903. Accordingly, plant in service should be decreased by \$381,738.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Graves, Norris)

Position of the Parties

KWRU: \$16,592,505.

A. For Phase I, if applicable

OPC: Phase I Plant should be \$11,108,464. This includes adjustments to reflect stipulated reductions of \$817,240 and to remove pro forma plant of \$3,574,468, for a total decrease of \$4,391,708. Neither pro forma growth-related plant expansion nor the vacuum tank replacement are not (sic) appropriate for Phase I, since both additions will provide service to future customers more than two years beyond the 2014 historical test year.

County: Agree with OPC that Phase I plant in service should be \$11,108,464.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Phase II plant should be \$15,182,830. In addition to stipulated adjustments, 2014 plant should be increased by \$88,027 to reflect the year-end balances, the treatment plant expansion should be increased by \$1,202,968 to reflect the \$4.3 million contracted cost, \$477,436 should be added to capitalize the construction permit litigation fees, and the vacuum tank addition of \$474,552 (less retirement of \$355,914) should be added.

County: Agree with OPC that Phase II plant in service should be \$15,182,830.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU argued that it made adjustments to plant in service as expansion and AWT costs were fully realized. (KWRU BR 9) The Utility further asserted that no party testified that its expenditures are either unreasonable or do not qualify for treatment as plant in service. (KWRU BR 9)

OPC

OPC argued that plant for Phase I rates should be \$11,108,464, which was the amount approved in the PAA Order, and includes adjustments made by the Commission to reflect agreed-upon audit reductions of \$817,240 from Audit Finding 1 and removes the Utility's requested pro forma plant of \$3,574,468, for a total decrease to plant of \$4,391,708. (OPC BR 11) OPC asserted that it is inappropriate to include any pro forma plant in Phase I rates that will provide service to future customers more than two years beyond the historical test year. (OPC BR 11)

OPC argued that the appropriate amount of plant in service for Phase II rates is \$15,182,830. (OPC BR 11) OPC included adjustments to reflect the stipulated reductions of \$817,240 from Audit Finding 1. (OPC BR 11) OPC asserted that the average balance of adjusted 2014 plant included in rate base should be increased by \$88,027 to reflect the year-end balance approved by the Commission in its PAA Order to bring forward the plant to a pro forma 2016 test year. (OPC BR 11) OPC witness Woodcock testified that the cost of the wastewater treatment plant expansion should reflect the contracted cost of \$4.3 million, which is an increase of \$1,202,968 to pro forma plant. (OPC BR 11)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC for Phase I and II. (County BR 14; Harbor Shores BR 2)

ANALYSIS

In the PAA Order, the Commission approved a Phase I plant in service amount of \$11,108,456. The Commission-approved plant in service included the agreed upon audit adjustments for plant and land which are discussed in Issue 5. The Commission-approved plant in service amount did not include pro forma plant.

Based on staff's review of OPC witness Merchant's testimony and exhibits, the record indicates an error was made in the calculation of OPC's recommended Phase II plant in service amount. Witness Merchant's recommended adjustments to Phase II rate base, were based on the Utility's original PAA request. However, in her calculation of rate base, the adjustments to plant and land were applied to the Phase II balances approved by the Commission in the PAA Order. (EXH 25, P 2) Therefore, the agreed upon audit adjustments to plant and land were counted twice and the pro forma plant expansion was understated. Correcting these errors increases OPC's recommended plant in service amount by \$909,735 and land by \$923, with a net increase of \$910,658 to OPC's Phase II rate base.

As a point of reference, Table 6-1 below summarizes the plant in service recommended by the Utility, OPC, and staff. Staff notes that the recommended amount for OPC reflects the amount with the identified errors corrected.

**Table 6-1
 Summary of Recommended Plant in Service**

Description	KWRU	OPC	Staff
PAA Order Phase I	\$11,108,464	\$11,108,464	\$11,108,464
Pro Forma Plant Adjustment	5,067,525	4,300,000	4,413,680
Vacuum Tank Replacement	431,801	474,552	407,771
Vacuum Tank Retirement	(390,285)	(355,914)	(390,285)
Increase Year End Balance	0	88,027	0
Legal Fees	0	477,436	0
Known and Measurable Changes	<u>0</u>	<u>0</u>	<u>97,273</u>
Total Plant in Service (less Land)	\$16,217,505	\$16,092,565	\$15,636,903
Land	<u>375,000</u>	<u>375,000</u>	<u>375,000</u>
Total Plant In Service	<u>\$16,592,505</u>	<u>\$16,467,565</u>	<u>\$16,011,903</u>

Sources (EXH 79, P 3; EXH 25, P 2)

As illustrated in Table 6-1 above, both KWRU and OPC are in agreement with the amount of land that should be included in plant in service amount. (TR 318; EXH 24, P 1; EXH 25, P 1) The land and land rights amount of \$375,000 was included in the PAA Order and was not contested or refuted by any party in this proceeding. Staff recommends that \$375,000 for land and land rights should be included in plant in service.

Both KWRU and OPC made adjustments for an expansion of the Utility’s wastewater treatment plant as well as an adjustment for a new vacuum tank. (EXH 17, P 4; EXH 25, P 2) The prudence of pursuing these projects was protested but not contested in this proceeding. Therefore, staff’s analysis addresses the costs for each project which are at contention in this proceeding.

With respect to the pro forma plant expansion, KWRU witness Swain included \$4.3 million for the expansion project. (EXH 17, P 4) The Utility’s estimate of \$4.3 million was supported by a signed construction contract with Wharton Smith. (EXH 8) OPC witness Woodcock testified that the cost of \$4.3 million does not appear to be unreasonable given the location (Florida Keys) of the project and the crowded conditions at the WWTP site. (TR 280-281) Witness Woodcock further testified that it appears that KWRU was prudent in receiving three bids for the project prior to its award. (TR 281)

KWRU witness Johnson, in his rebuttal testimony, testified that the total estimated cost for the expansion project increased from \$4.3 million to approximately \$5.2 million. (TR 603) Information provided by KWRU witness Johnson supporting the increase only contained costs with minimal explanation of why the additional expenditures were necessary. (TR 648) Furthermore, KWRU witness Johnson acknowledged, during cross examination, that some of the additional costs presented in his rebuttal testimony were also included in the Wharton Smith contract. (TR 648) Witness Johnson additionally acknowledged that costs associated with the vacuum tank replacement, were included in the additional costs. (TR 641) Given the lack of supporting evidence as well as the uncertainties highlighted during the hearing, it is staff’s position that the updated costs should not be included in plant in service. (TR 648)

Staff does believe an exception for additional engineering costs should be made. Unlike the other additional costs presented by witness Johnson, the estimates for additional engineering costs were supported by KWRU witness Castle who is the engineer of record for the pro forma plant expansion. (TR 577) Witness Castle provided estimates for hours and tasks that would be performed for the time period October 2016 through March 2017. (EXH 73) Therefore, staff recommends that the \$113,680 for additional engineering be included in plant in service.

Regarding the vacuum tank, the Utility provided direct testimony that supported an estimated cost of \$610,177 for the vacuum tank replacement project. (EXH 4, P 3) OPC witness Merchant recommended \$474,552 for the vacuum tank, based on the testimony of OPC witness Woodcock. (TR 316-317) In his rebuttal testimony, KWRU witness Johnson provided an updated estimate for the total cost of vacuum tank replacement project. The updated cost of \$407,771 was supported by a signed contract with Wharton Smith who is also performing the pro forma plant expansion. (TR 603; EXH 75) However, the updated revenue requirement calculated by KWRU witness Swain reflects \$431,801, as she double counted an invoice for additional engineering services. Based on the testimony of KWRU and OPC, as well as the supporting documentation provided by the Utility, staff believes that a pro forma adjustment of \$202,406 should be made to decrease plant in service to reflect the updated cost of the vacuum tank. (\$610,177 - \$407,771)

Related to the vacuum tank replacement project, OPC witness Merchant testified that a retirement adjustment is necessary as the existing vacuum tank is being retired and replaced and will not remain in service. Witness Merchant based her retirement entry on 75 percent (\$355,914) of the plant addition cost which is a common method of determining the amount to retire for water and wastewater utilities in Florida. (TR 316) The direct testimony and exhibits of KWRU did not include a retirement amount associated with the vacuum tank replacement. In her rebuttal testimony, KWRU witness Swain testified that she agreed with witness Merchant regarding the need to make an adjustment for the retirement of the original vacuum tank. (TR 766) Witness Swain's adjustment for the retirement of the original vacuum tank was based on the original cost (\$390,285) of the vacuum tank. (TR 767) Staff agrees with the parties that a retirement adjustment for the vacuum tank should be made. Staff recommends that the amount should be based on the original cost of the vacuum tank. Thus, pro forma plant should be reduced by \$390,285 to reflect the retirement of the vacuum tank.

OPC's recommended Phase II plant in service amount included two additional adjustments not made by KWRU. The first was the inclusion of \$477,436, for legal fees. As discussed in Issue 28, staff believes that legal fees should not be included in plant in service. The second additional adjustment was an increase of \$88,027. Witness Merchant testified that the average balance of adjusted 2014 plant included in rate base should be brought forward to the year-end balance approved by the Commission in its PAA order. (TR 315)

As discussed in Issue 3, staff believes that the 2014 test year should be updated for known and measurable changes. Therefore, to remain consistent with this methodology, the test year plant should reflect an average balance with an adjustment to include routine plant additions as pro forma plant. Staff reviewed plant additions for 2015 and 2016 (through September) that were provided by the Utility in response to staff discovery. The Utility also provided its general ledger for the same time period. (EXH 4) Based on the information provided by KWRU, staff believes

that plant in service should be increased by \$97,273 to reflect known plant additions in 2015 and 2016. (EXH 4)

CONCLUSION

Based on the discussion above, the appropriate test year balance of plant in service is \$15,636,903, not including land. Accordingly, plant should be decreased by \$381,738. ($\$113,680 - \$202,406 - \$390,285 + \$97,273$)

Issue 7: What is the appropriate amount of accumulated depreciation to be used in setting rates?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate balance of accumulated depreciation to be used in setting rates is \$6,620,259. Accordingly, accumulated depreciation should be increased by \$548,574.

- A. As addressed in Issue 2, Phase I, is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: \$5,738,008

A. For Phase I, if applicable

OPC: Phase I accumulated depreciation (AD) should be \$5,830,802. In addition to stipulated adjustments, the Utility’s plant expansion accumulated depreciation adjustment of \$196,281 should be removed. The vacuum tank replacement shouldn’t be allowed in Phase I as it is not in service. Further, the Utility’s \$4,384 adjustment to annualize 2014 depreciation violates the test year matching concept and the statutory requirement of not including depreciation expense on contributed plant; thus, these should be disallowed.

County: Agree with OPC that accumulated depreciation (“AD”) for Phase I should be \$5,830,802.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Phase II accumulated depreciation (“AD”) should be \$6,876,849. In addition to stipulated adjustments, AD should be updated to 2016 levels, a more representative and closer period when the plant expansion will be in-service. Thus, a 2014 year-end adjustment of \$183,207, and increases for the 2015 and 2016 additions of \$924,677 to AD are appropriate. Lastly, AD should be increased by \$67,026 and \$26,385, respectively, for the plant expansion and vacuum tank addition (including the retirement).

County: Agree with OPC that Phase II AD should be \$6,876,849.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

Based on a single phase revenue requirement, KWRU's position on Issue 2, the proper amount of accumulated depreciation is \$5,738,008. (KWRU BR 10) This amount is reflective of the updated cost of the pro forma plant expansion. (EXH 79, P 1; KWRU BR 10) The Utility also noted in its brief that all book adjustments were made as ordered in the previous rate case¹⁶ and in the time period required. (TR 768; KWRU BR 10)

OPC

In its brief, OPC asserted that for Phase I, accumulated depreciation should be \$5,830,802 reflecting a decrease of \$198,625. (TR 321, 318-319; EXH 24; OPC BR 13) OPC stated that in addition to stipulated adjustments, and as testified to by witness Merchant, the Utility's \$196,281 pro forma adjustment to accumulated depreciation for the plant expansion should be removed and the vacuum tank replacement should not be allowed in Phase I. (TR 318-319; TR 314-315; OPC BR 14) OPC stated that the Utility's \$4,384 adjustment to annualize 2014 depreciation expense should be disallowed because allowing the Utility to make a one-sided adjustment to accumulated depreciation and depreciation expense ignores the impact of the annualization of amortization of CIAC. (OPC BR 14) OPC witness Merchant also testified that this adjustment effectively converted the average balance into a year end balance, while CIAC, amortization of CIAC, and billing determinants are averaged. (TR 320)

For Phase II, OPC indicated that accumulated depreciation should be \$6,876,849. (EXH 25; OPC BR 14) OPC stated that in addition to stipulated adjustments, witness Merchant asserted that accumulated depreciation should be increased to be consistent with a 2016 test year. (TR 321-323; OPC BR 14) OPC indicated that a 2016 test year is a more representative period for the Commission to consider in setting final rates, and is consistent with and closer to the timeframe of when the treatment plant expansion will be placed into service. (OPC BR 14) OPC specified that the "average to year-end" adjustment to accumulated depreciation should be increased by \$183,207, which is net of the Company's adjustment to reflect year-end accumulated depreciation for the 2014 test year plant additions. (OPC BR 14) OPC stated that using the 2014 year-end depreciation expense of \$462,339 as a starting point and to be consistent with a 2016 test year, accumulated depreciation should be increased by \$924,677 to reflect the 2015 and 2016 additions. (TR 322-323; OPC BR 14) OPC asserted that accumulated depreciation should also be increased by \$67,026 and \$26,385, respectively, related to the pro forma cost of the wastewater treatment plant expansion costs and the vacuum tank addition, along with the corresponding retirements. (OPC BR 14) OPC stated that the total adjustments to accumulated depreciation for Phase II rates should be an increase of \$847,422. (EXH 25; OPC BR 14)

¹⁶ Docket No. 070293-SU

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC on Phase I and II accumulated depreciation. (County BR 15; Harbor Shores BR 2)

ANALYSIS

In KWRU's updated filing, the Utility reflected test year accumulated depreciation of \$5,828,761 along with adjustments to increase accumulated depreciation by \$4,383 for annualizing depreciation expense in the test year and by \$236,500 as a corresponding adjustment to its updated pro forma plant request. (EXH 17, P 2-3) As discussed in Issue 5, KWRU also included Stipulation 5 to decrease accumulated depreciation by \$2,040. (EXH 17, P 3)

In regard to the Utility's test year adjustment to annualize depreciation expense, OPC witness Merchant testified that this adjustment effectively converted the average balance into a year end balance, while CIAC, amortization of CIAC, and billing determinants are averaged. (TR 320) As addressed in Issue 29, staff believes KWRU's adjustment to annualize depreciation expense is appropriate as it matches the full year of CIAC amortization expense KWRU included in its filing. However, in regard to OPC's position that the adjustment to annualize depreciation expense converted the average balance of accumulated depreciation into year-end, adding the \$4,383 adjustment to the average balance of test year accumulated depreciation, \$5,828,761, results in \$5,833,144, which is less than the year-end balance of \$6,055,721. (EXH 16, P 12; EXH 17, P 2) Therefore, the adjustment to annualize depreciation does not reverse the averaging adjustment.

Additionally, the appropriate corresponding adjustments to accumulated depreciation for the pro forma plant discussed in Issue 6 is a decrease of \$383,138 to reflect the pro forma plant projects, along with an associated retirement and an increase of \$9,525 to reflect the 2015 and 2016 routine plant additions.

Based on staff's recommendation in Issue 3 to include known and measurable changes to the 2014 test year, staff believes it is also appropriate for the accumulated depreciation balance to reflect two additional years of depreciation. Consistent with staff's pro forma treatment of 2015 and 2016 routine plant, staff believes it is appropriate to reflect this additional accumulated depreciation as a year-end amount. Based on staff's recommended test year plant balances, which do not include any pro forma plant, the indicated increase is \$922,187.

CONCLUSION

Based on staff's recommended adjustments, the appropriate balance of accumulated depreciation to be used in setting rates should be \$6,620,259, which reflects an increase of \$548,574 (-\$383,138 + \$9,525 + \$922,187).

Issue 8: What is the appropriate amount of CIAC to be used in determining the rate base that is used for setting rates?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate amount of contributions-in-aid-of-construction (CIAC) to be used in setting rates is \$10,021,909. Accordingly, CIAC should be increased by \$372,032.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: \$9,649,877.

A. For Phase I, if applicable

OPC: CIAC for Phase I should be \$9,649,877, which includes the stipulated adjustments of \$297,120 recommended by Audit Finding 4. No further updates to CIAC to reflect the amount of CIAC collected after December 31, 2014, should be made for Phase I.

County: Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Phase II CIAC should be \$10,717,289. In addition to stipulations, before future expansion plant is allowed, CIAC should be updated to 2016 levels, a more representative period when the expansion will be in-service. A 2014 year-end increase of \$136,012 and actual increases for 2015-May 2016 additions of \$489,469 are appropriate. Additional 2016 CIAC projections of \$441,931 should be added for collections expected in the first year after the plant expansion is completed and in-service.

County: The appropriate amount of CIAC for Phase II is approximately \$11,264,125, although the amount could be significantly greater. Accordingly, the Commission should require KWRU to report to the Commission regarding any significant additions to CIAC, such as may occur if the contemplated acquisition of the FKAA wastewater accounts in Key Haven is consummated.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In its brief, the Utility asserted that CIAC should reflect the historical test year and that additional CIAC from future periods should not be included. (KWRU BR 10) KWRU witness Swain testified that pursuant to Section 367.081(2)(a)1, F.S., the Commission shall not impute prospective future CIAC against the utility's investment in property used and useful in the public service, and that the statute clearly states that the Commission should not impute future CIAC, as proposed by OPC witness Merchant. (TR 770)

OPC

In its brief, OPC asserted that CIAC for Phase I should be \$9,649,877, including the stipulated decrease of \$297,120 to CIAC from Audit Finding 4. (EXH 24; OPC BR 15) OPC witness Merchant testified that no further updates to CIAC to reflect the amount of CIAC collected after December 31, 2014, should be made for the Phase I revenue requirement. (TR 324-325)

OPC witness Merchant testified that the appropriate amount of CIAC for Phase II rates is \$10,717,289. (EXH 25) OPC stated that after making the stipulated audit adjustment, it is appropriate to update the test year CIAC to 2016 levels, which is more representative of the time period that the treatment plant will be placed in-service. (TR 329; OPC BR 15) Witness Merchant testified that, consistent with its adjustments to plant and accumulated depreciation, the 2014 average balance of CIAC from the PAA Order should be increased by \$136,012 to reflect the year-end balance. (TR 327) OPC asserted that before any future plant expansion or pro forma plant is allowed, it is critical and correct to include the \$489,469 in CIAC actually collected by KWRU through May 2016. (TR 327; EXH 26; EXH 28; OPC BR 15) OPC stated that KWRU also collected additional CIAC in August 2016. (TR 327; OPC BR 15) OPC asserted that if the Commission sets new rates without taking into account the CIAC collected in 2015 and 2016, as well as the expected customer growth for 2016 as calculated by witness Woodcock for his used and useful analysis, then the rates established will immediately provide excess earnings to the Utility at a substantial cost to the existing and future customers, and it will violate the matching principle. (TR 329; OPC BR 15)

OPC acknowledged that KWRU witness Johnson testified that CIAC may be subject to refund when Monroe County reopens its tax rolls and allows customers who have already prepaid CIAC to receive refunds and to finance CIAC payments over time on their property taxes. (TR 607; OPC BR 17) However, OPC pointed out that KWRU witnesses Johnson and Swain both acknowledged that no refund had actually occurred. (OPC BR 15)

County

In its brief, the County agreed with OPC on Phase I. (County BR 16) In regards to Phase II CIAC, the County asserted that the plant investment, which includes pro forma plant projects going into service in 2017, should be reduced by additional CIAC collected in 2016 and 2017 from customers in order for the Utility's Phase II rates to reflect the Utility's costs to serve during the time rates are in effect. (County BR 16-17) The County stated that OPC witness Merchant's adjustment to include CIAC for 2016 does not capture all necessary adjustments to

include additional CIAC. (County BR 17) Instead, the County proposed an adjustment to increase CIAC by escalating witness Merchant's 2016 CIAC value by 7.06 percent, the Utility's own best estimate of its growth. (County BR 17-18) This would produce a result of \$11,473,930 for Phase II CIAC. (County BR 21) The County noted that this was particularly important based on KWRU's own growth estimate of 7.06 percent per year in additional gallons. (TR 657; EXH 106; County BR 17)

Additionally, the County discussed KWRU witness Johnson's admission that the Utility has made an offer to the Florida Keys Aqueduct Authority ("FKAA") to acquire approximately 400 existing wastewater customers that FKAA presently serves in Key Haven and requested that the Commission require KWRU to report on the status of any discussions or acquisitions involving Key Haven customers in order to adjust rates as necessary. (TR 658; County BR 20-21)

Harbor Shores

In its brief, Harbor Shores agreed with OPC on Phase I and II. (Harbor Shores BR 2)

ANALYSIS

In KWRU's updated filing, the Utility reflected test year CIAC of \$9,946,997. (EXH 17, P 1) As discussed in Issue 5, KWRU also included Stipulation 4 to decrease CIAC by \$297,120. (EXH 17, P 3) KWRU, OPC, and the County all testified to two points of contention regarding adjustments to CIAC that were both prospective, 1) potential refunds of CIAC payments and 2) potential new CIAC collections.

KWRU witness Johnson argued that \$556,628 of CIAC may be subject to refund when Monroe County reopens its tax rolls and allows customers who have already prepaid CIAC to receive refunds and to finance CIAC payments over time on their property taxes. (TR 607) However, witness Johnson later testified that no actual refunds have been made to date and that KWRU cannot force a customer to be placed on the County's tax roll. (TR 645) In addition, witness Johnson testified on cross-examination that the Utility did in fact collect these amounts, and that no refunds have been made to date. (TR 645) KWRU witness Swain testified that because the test year is historical, it is inappropriate to adjust CIAC to another period. However, she later testified that if any future CIAC is added, CIAC payments that have been refunded should reduce any addition. (TR 769-770) In addition, witness Swain acknowledged that no CIAC had been refunded to date. (TR 753-754, 786-787, 800, 814, 826-827, 841-842)

County witness Wilson testified that if a customer has already paid their system development fee to the Utility, the agreement between the County and KWRU provides that the Utility would pay that money to the County and if a customer has already paid their system development fee to the County, no additional CIAC is required from the customer. (TR 483-484) Additionally, OPC witness Merchant argued that additional CIAC, beyond the amounts actually collected in 2015 and 2016, should be included in rate base in order to provide a proper matching of plant investment and customer contribution. (TR 330-331) County witnesses Santamaria and Wilson identified an estimated 351 new connections which result in the additional collection of CIAC by the middle of 2017 to support the inclusion of prospective CIAC. (TR 66, 463, 470, 497, 502-506)

Staff believes that both of these prospective adjustments to CIAC should not be included in rate base for the same reason. The conflicting testimony provided by the parties is too speculative to support adjustments because it is based on potential events that may or may not occur. In so recommending, staff notes that "it is the [Commission's] prerogative to evaluate the testimony of competing experts and accord whatever weight to the conflicting opinions it deems necessary."¹⁷

KWRU witness Swain testified that OPC witness Merchant's adjustment to impute future CIAC violates Section 367.081(2)(a)1, F.S., which states that, "...nor shall the commission impute prospective future contributions-in-aid-of-construction against the utility's investment in property used and useful in the public service." (TR 770) Staff believes that the inclusion of collected, non-prepaid CIAC does not violate Section 367.091(2)(a)1., F.S. Documented CIAC collected by customers actively receiving service in a future period beyond the test year is clearly demonstrated and not prospective. However, staff agrees that potential CIAC should not be imputed.

Based on staff's position on Issue 3 to include known and measurable changes to the 2014 test year, staff believes it is appropriate to include actual collections of CIAC from 2015 and 2016. Staff reviewed the information about CIAC collected in 2015 and 2016 (through August) that was provided by the Utility in response to staff discovery, along with the general ledger for the same time period. (EXH 49, BSP 33; EXH 51, BSP 65; EXH 55, BSP 188; EXH 62, BSP 1615) Consistent with staff's pro forma treatment of 2015 and 2016 routine plant additions, staff believes it is appropriate to reflect this additional CIAC as a year-end amount. Accordingly, based on the information provided by KWRU, staff recommends that CIAC be increased by \$372,032 to reflect CIAC collected in 2015 and 2016.

CONCLUSION

The appropriate amount of CIAC to be used in setting rates is \$10,021,909. Accordingly, CIAC should be increased by \$372,032.

¹⁷ Gulf Power Co. v. FPSC, 453 So. 2d 799, 805 (Fla. 1984).

Issue 9: What is the appropriate amount of accumulated amortization of CIAC to be used for setting rates?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate amount of accumulated amortization of CIAC to be used in setting rates is \$3,748,595. Accordingly, accumulated amortization of CIAC should be increased by \$733,654.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: \$3,014,941

A. For Phase I, if applicable

OPC: Phase I Accumulated Amortization of CIAC (AA-CIAC) should be \$3,014,941, with a stipulated decrease of \$81,153. Since it is not appropriate to update CIAC for collections after December 31, 2014, no additional adjustments to Accumulated Amortization of CIAC are appropriate for Phase I rates.

County: Agree with OPC that Phase I Accumulated Amortization of CIAC (“AA-CIAC”) should be \$3,014,941.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Phase II AA-CIAC should be \$3,945,225. After making the stipulated adjustments, AA-CIAC should be increased by: 1) \$204,033 to reflect the 2014 year-end balance; 2) \$682,928 to add 2 years of amortization for 2015-2016; 3) \$27,903 for amortization of actual CIAC additions for 2015-May 2016; and 4) \$15,421 for amortization on projected 2016 CIAC additions. For each adjustment, a 3.49% amortization rate is used per the PAA Order.

County: Agree with OPC that Phase II AA-CIAC should be \$3,945,225.

Harbor Shores: Agrees with OPC

Staff Analysis:

PARTIES’ ARGUMENTS

KWRU

KWRU stated that the accumulated amortization of CIAC is properly calculated based on the CIAC balance set forth in its position to Issue 8. (KWRU BR 10)

OPC

OPC witness Merchant testified that Phase I accumulated amortization of CIAC should be \$3,014,941 after including stipulated adjustments resulting in a decrease of \$81,153 related to Audit Finding 4. (TR 325; EXH 24; OPC BR 17) OPC explained that since it is not appropriate to update CIAC for collections after December 31, 2014, no additional adjustments to accumulated amortization of CIAC are appropriate for Phase I. (TR 325-326)

In its brief, OPC asserted that Phase II accumulated amortization of CIAC should be \$3,945,225 based on its additional adjustments using an amortization rate of 3.49 percent, pursuant to the PAA Order in this docket. (EXH 25; OPC BR 18) OPC also explained that after making the stipulated adjustments, consistent with updating the 2016 pro forma test year, accumulated amortization of CIAC should be increased by \$204,033 to reflect the 2014 year-end balance, two years of CIAC amortization expense of \$682,928 for 2015 and 2016 should be added, and amortization of \$15,421 on projected additions to 2016 CIAC for the pro forma test year should be added. (TR 331-332; OPC BR 18)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC on Phase I and II. (County BR 22; Harbor Shores BR 2)

ANALYSIS

In KWRU's updated filing, the Utility reflected test year accumulated amortization of CIAC in the amount of \$3,096,094. (EXH 17, P 1) As discussed in Issue 5, KWRU's updated filing recognized Stipulation 4 which resulted in a decrease to accumulated amortization of CIAC of \$297,120. (EXH 17, P 3)

To remain consistent with staff's recommended pro forma adjustments in other issues to reflect known and measurable changes to the 2014 test year, it is appropriate for the balance of accumulated amortization of CIAC to reflect an adjustment to include two additional years of CIAC amortization expense. Consistent with staff's pro forma treatment of 2015 and 2016 CIAC collections, it is appropriate to reflect this additional accumulated amortization of CIAC as a year-end amount. Based on staff's recommended test year CIAC balances, an increase of \$703,061 to reflect pro forma 2015 and 2016 accumulated amortization of CIAC is appropriate. Additionally, a corresponding adjustment is necessary to increase accumulated amortization of CIAC by \$30,593 to reflect the pro forma 2015 and 2016 CIAC recommended in Issue 8. In total, staff's recommended pro forma adjustment to CIAC is an increase of \$733,654 (\$703,061 + \$30,593).

CONCLUSION

Based on the above, the appropriate amount of accumulated amortization of CIAC to be used in setting rates is \$3,748,595. Accordingly, accumulated amortization of CIAC should be increased by \$733,654.

Issue 10: What is the appropriate amount of construction work in progress (CWIP) to be used for setting rates?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: Consistent with previously recommended plant adjustments, the appropriate amount of CWIP to be used for setting rates is \$0, as the plant improvements are included in staff's recommended plant in service total.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: \$0 since the plant expansion will be on-line when the rates go into effect. If there is not a single increase then the amount is subject to a Stipulation.

A. For Phase I, if applicable

OPC: Phase I CWIP should be \$780,571. Stipulation 2 increases CWIP related to construction costs for the wastewater plant expansion project of \$158,151 in 2014, and \$144,984 in 2015, for a total of \$303,135. Also, the 2015 balance of the Last Stand Legal Fees should be recorded in CWIP until the new wastewater treatment plant is placed into service. CWIP should be increased by \$477,436, until the WWTP expansion is placed into service.

County: Agree with OPC that CWIP for Phase I should be \$780,571.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: The appropriate amount of Phase II CWIP should be zero to reflect that the construction costs should be capitalized to plant.

County: Agree with OPC that CWIP for Phase II should be 0 because the construction costs should be capitalized to plant.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In its brief, the Utility asserted that there is no justification for a two-phased calculation due to the substantial amount which will have been expended for capital projects by the time rates become effective. (KWRU BR 11) KWRU witness Johnson testified that the plant improvements

are expected to be substantially complete by early March 2017. (TR 602-603) This is reflected in KWRU witness Swain's testimony that CWIP should be removed in the Utility's calculation of a single revenue requirement. (EXH 17, P 3) However, KWRU also stated in its brief that if a two-phased rate is approved, the first phase should include the CWIP on the Utility's books as of December 31, 2016, the period the Phase 1 rates are in effect, in the amount of \$620,619. (EXH 28, P 50; KWRU BR 11)

OPC

OPC witness Merchant testified that Phase I CWIP should be \$780,571. (TR 332; EXH 24; OPC BR 18) In addition to the stipulated adjustments from Audit Finding 2, OPC witness Merchant testified that the 2015 balance of the Last Stand Legal Fees of \$477,436 should be recorded in CWIP until the new wastewater treatment plant is placed into service based on its recommended accounting treatment of the fees. (TR 332; EXH 24, P 2)

In its brief, OPC stated that the appropriate amount of CWIP for Phase II rates should be zero to reflect that the construction costs have been capitalized into plant. (TR 332; EXH 25, P 1; OPC BR 19)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC on Phase I and II. (County BR 22; Harbor Shores BR 2)

ANALYSIS

As addressed in Issue 2, a two-phased rate increase is not necessary in this instance. As such, consistent with staff's previously recommended plant adjustments, the appropriate amount of CWIP to be used for setting rates is \$0, as the plant improvements are included in staff's recommended plant in service total.

Issue 11: What is the used and useful (U&U) percentage of the Utility’s wastewater treatment plant after the treatment plant expansion is placed into service?

Recommendation: The wastewater treatment plant should be considered 71.5 percent used and useful based upon a projected demand of 0.606 million gallons per day (MGD) in 2021. To reflect the appropriate U&U percentage, staff recommends that the appropriate non-used and useful reduction to rate base is \$1,440,804. Corresponding adjustments should be made to decrease net depreciation expense and property taxes by \$117,138 and \$10,526, respectively. (Hill, Norris)

Position of the Parties

KWRU: The wastewater treatment plant is 100% used and useful after the treatment plant expansion is placed in service.

OPC: After projecting the increased gallons for 2016 consumption, the appropriate non-used and useful percentage is 25%. This should be applied to the recommended balance of plant, accumulated depreciation, depreciation expense and property tax expense as shown on Exhibit PWM-3, Schedule 1-D. The appropriate reduction to rate base is \$1,632,646 (plant in service of \$2,429,995 less accumulated depreciation of \$797,349). Reductions to depreciation expense (\$130,954) and property taxes of (\$16,177) are appropriate.

County: Agree with OPC that the appropriate non-used and useful percentage should be 25%.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES’ ARGUMENTS

KWRU

KWRU raised three arguments to support its position that its wastewater treatment plant is 100 percent used and useful: (1) the expansion is for environmental compliance purposes and that DEP rules require a planning period of at least 10 years, (2) that the additional plant will be necessary in maintaining AWT treatment levels during maintenance which takes portions of the existing plant offline, and (3) that growth beyond the strict percentage calculated should be considered. (KWRU BR 11)

KWRU supported argument (1) by citing Section 367.081(2)(a)2.c., F.S., which states that “the commission shall approve rates for service which allow a utility to recover from customers the full amount of environmental compliance costs.” (KWRU BR 11) It then argued that Rule 62-600.405(1), F.A.C. requires sizing any permitted work for a planning period of “ten years or longer.” (BR 12) KWRU further argues that the Recommended Standards for Wastewater Facilities referenced by Rule 62-600.300, F.A.C. requires such plans “shall be based on a 20 year planning period.” (TR 596) KWRU witness Seidman also stated that, in the Last Stand litigation, DEP accepted the hearing officer’s findings of fact that the KWRU system would be built out between 2018 and 2020. (KWRU BR 12)

KWRU supported argument (2) with witness Castle's direct testimony that "treatment unit processes must have redundancy to allow maintenance personnel to take plants off line [for maintenance]." (TR 603)

KWRU supported argument (3) by stating that Rule 25-30.432, F.A.C., "states that the extent to which the area served is built-out should be considered, implying that projected growth based on factors other than a strict percentage should reasonably be allowed," and further stating that "[v]acant, unconnected land within KWRU's tariff area is projected to be fully built-out between 2018 and 2020." (KWRU BR 13)

KWRU stated that, should a 100 percent U&U not be approved, then the average growth should properly be 7.06 percent, which would yield a U&U percentage of 76.42 percent (KWRU BR 14).

OPC

OPC provided a U&U calculation sponsored by witness Woodcock which relied on four arguments: (1) that growth should be measured based upon 2014 and the previous 4 years, (2) that actual flows from 2015 and 2016 are not typical given the suppression in growth during that time and thus should not be used, (3) that flows should be projected to 2016, which should be used as the start of the growth period, and (4) a 5-year growth allowance from 2016 to 2021 is appropriate. (OPC BR 19)

OPC supported argument (3) by stating that it is consistent with the methodology utilized by the Commission in the 2001 Burkim Enterprises PAA Order. (OPC BR 19) OPC witness Woodcock stated that "adjustments I have made in my analysis ... mitigate the unique conditions associated ... at this time. Therefore, projecting a growth rate above the 5 percent not to exceed provision of Rule 25-30.431, F.A.C. is not warranted." (TR 279)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC's position on Phase I and II of this issue. (County BR 23; Harbor Shores BR 2)

ANALYSIS

KWRU witness Seidman provided testimony and exhibits supporting a U&U of 100 percent. (TR 192) Witness Seidman supported his argument by testifying that in the last Stand litigation one of the principal issues was the needed capacity of the plant expansion. Witness Seidman elaborated that based upon testimony presented (in the last Stand litigation), the DEP accepted the hearing Officer's findings of fact that the KWRU system will be built out between 2018 and 2020. (TR 190)

OPC witness Woodcock testified that KWRU's WWTP expansion should be 75 percent U&U. (TR 278) Witness Woodcock testified that he evaluated the U&U of the WWTP post expansion based on a pro forma test year of 2016, when the expansion was initially expected to be constructed and placed into service. (TR 277) Secondly, witness Woodcock limited the growth for KWRU's system to 5 percent as provided for in Rule 25-30.431(2)(a) F.A.C. (TR 277) Witness Woodcock testified that his U&U approach is consistent with the U&U methodology

used by the Commission in the 2001 Burkim Enterprises PAA Order which involved a utility experiencing rapid growth. (TR 277) Witness Woodcock further testified that certain adjustments should be made to mitigate the unique conditions KWRU faces due to the suppressed growth. Witness Woodcock stated that “[u]sing actual 2015 and 2016 flows overlooks the fact that due to limitations in the WWTP capacity there has been essentially no growth in the system.” (TR 278)

KWRU witness Castle testified that witness Woodcock’s U&U calculation failed to consider DEP rules. Specifically witness Castle cited Rule 62-600.405(1), F.A.C., which requires evaluation of current and future flows and requires flow projections based on local growth and usage rates for at least 10 years. Witness Castle concluded that the expanded plant is a direct result of these environmental mandates and is therefore an environmental compliance cost. (TR 570)

Staff does not agree with witness Castle that Rule 62-600.405, F.A.C., requires sizing any permitted work for a planning period of 10 years or longer. Rule 62-600.405(6), F.A.C., states, in part,

The initial capacity analysis report or an update of the capacity analysis report shall evaluate the capacity of the treatment plant and reuse or disposal systems and contain data showing the permitted and design capacities; monthly average daily flows, three-month average daily flows, and annual average daily flows for the past 10 years or for the length of time the facility has been in operation, whichever is less; seasonal variations in flow; flow projections based on local population growth rates and water usage rates for at least the next 10 years

The Rule referenced by witness Castle is silent on whether this requires any system to be designed to serve flows within 10 years. The following Rule 62-600.405(8) F.A.C., states, in part (emphasis added):

- (8) Documentation of timely planning, design, and construction of needed expansions shall be submitted according to the following schedule:
 - (a) If the initial capacity analysis report or an update of the capacity analysis report documents that the permitted capacity will be equaled or exceeded within the next five years, **within the next five years,**

Witness Castle additionally testified that the Recommended Standards for Wastewater Facilities referenced by Rule 62-600.300, F.A.C. requires such plans “shall be based on a 20 year planning period.” (EX 63, TR 597) Staff believes that this Rule and the referenced standards do not require utilities to design all expansions to serve projected demand based on this 20 year planning period. Rule 62-600.300, F.A.C. referenced by witness Castle states, in Section 3 that:

- (3) In cases where standards and criteria contained in the publications listed in subsection 62-600.300(4), F.A.C., conflict with other rules of the Department, the other rules shall apply.

KWRU cited Chapter 10, Section 11.23 of the Recommended Standards for Wastewater Facilities reference. (EXH 63) Staff notes that this section also includes the parameter that

“[p]hased construction of wastewater facilities should be considered in rapid growth areas,” and so this reference does not require that any construction must be designed for the full 20 year planning period.

Staff recommends that U&U be calculated as required by Rule 25-30.431, F.A.C., by using a linear regression model and projecting flows out five years. Staff additionally recommends the following: (1) growth should be measured based upon the test year, the previous 4 years, and known and measurable changes through 2015, (2) flows for 2016 should be projected because 2016 flows do not appear to be typical and (3) a 5-year growth allowance from 2016 to 2021 is appropriate. The timeframe over which staff is projecting is the same as the timeframe used by witness Woodcock. (EXH 20) Like KWRU and OPC, staff does not believe an adjustment for inflow and infiltration (I&I) is necessary in this case. (TR 278)

The linear regression analysis performed by staff results in an addition of 364.9 equivalent residential connections (ERCs) from the test year to 2016 and an addition of 916.6 ERCs for the growth period of 2016 to 2021. The Utility had an average of 4,039 ERCs for the test year, resulting in 114 gpd/ERC (461,323 gpd / 4,039 ERCs). Thus a growth allowance of 146,091 gpd is also considered $((364.9 + 916.6) \times 114 \text{ gpd per ERC})$. Based on the annual average daily flow during the test year of 461,323 gpd, the DEP permitted plant capacity of 849,000 gpd, the growth allowance of 146,091 gpd, the excessive I&I of 0 gpd, staff recommends that the WWTP be considered 71.5 percent U&U $[(461,323 \text{ gpd} - 0 \text{ gpd} + 146,091 \text{ gpd}) / 849,000 \text{ gpd}]$.

CONCLUSION

The wastewater treatment plant should be considered 71.5 percent used and useful based upon a projected demand of 0.606 MGD in 2021. To reflect the appropriate U&U percentage, staff recommends that the appropriate reduction to rate base is \$1,440,804. Corresponding adjustments should be made to decrease net depreciation expense and property taxes by \$117,138 and \$10,526, respectively.

Issue 12: What is the appropriate working capital allowance?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate working capital allowance is \$923,671. Accordingly, working capital should be decreased by \$534,599.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: \$1,458,270 based upon pro-forma test year balance sheet plus cost associated with permit litigation.

A. For Phase I, if applicable

OPC: Phase I working capital should be \$328,976. Adjustments, in addition to stipulations, are necessary to reduce cash by \$615,687 for unused and inappropriate balances; remove deferred debits for accounting fees incurred by KWRU to correct its books; remove deferred debits related to construction permit litigation fees for the plant expansion, as these are in CWIP for Phase I and capitalized into plant for Phase II; and include 1/2 of the allowed rate case expense.

County: Agree with OPC that the working capital allowance for Phase I should be \$328,976.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: The appropriate amount of working capital for Phase II rates should be \$328,976.

County: Agree with OPC that the working capital allowance for Phase II should be \$328,976.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

The Utility stated that working capital should be in the amount of \$1,458,270, which properly accounts for all expenses and pro forma adjustments (TR 203; KWRU BR 14) KWRU contended that the working capital has been depleted below levels needed due to the Last Stand challenge, the rate proceeding, and AWT compliance. (TR 204; KWRU BR 14) The Utility attributed the increase in cash during the test year directly to collection of CIAC, and claimed the funds were utilized for defense in the Last Stand challenge. (KWRU BR 15) KWRU also contended that

CIAC collected is available for any need, and was used to finance projects and to cover operating expenses during this rate case. (TR 771; KWRU BR 15)

OPC

OPC's position is Phase I Working Capital should be \$328,976. (OPC BR 20) OPC witness Merchant testified that \$615,687 in cash should be removed. (TR 334; OPC BR 20) This amount is associated with four adjustments: 1) removal of \$126,930 associated with an escrow account for the vacuum expansion project closed in March 2015; 2) removal of \$141,828 for an escrow account related to customer deposits; 3) removal of an unused capital operating account with a balance of \$375,840; and 4) removal of the 13-month average balance of \$115,643 in a cash capital operating account related to an account funded by a single transfer in May 2014. (TR 333; OPC BR 20) Witness Merchant also testified that deferred debits associated with accounting fees and legal fees related to the Last Stand litigation should be removed. (TR 336,339; OPC BR 20) OPC stated that \$76,011 of the unamortized rate case expense should be allowed. (TR 342; OPC BR 21) OPC contends KWRU's assertions that the high working capital balance is necessary for AWT operational expenses, the Last Stand litigation, and other regulatory environment existing in the Florida Keys Area of Critical Concern are without merit and should be disregarded as costs required to operate AWT are included as part of O&M and not working capital. (TR 344; OPC BR 21) In regards to Phase II, OPC's position is the working capital balance should remain at \$328,976. (OPC BR 21)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC on Phase I and II. (County BR 23-24; Harbor Shores BR 2)

ANALYSIS

Rule 25-30.433(2), F.A.C., requires that Class A utilities use the balance sheet method to calculate the working capital allowance. In its updated filing, the Utility reflected a working capital allowance of \$1,458,270. (EXH 17, P 1) As discussed in Issue 5, KWRU's filing recognized Stipulation 8 to increase accounts receivable-other by \$40,067 and to decrease miscellaneous current and accrued assets by \$13,422. (EXH 17, P 3) The Utility also recognized staff Audit Finding 6 and increased miscellaneous deferred debits by \$24,217. (EXH 17, P 3)

Cash

In its filing, KWRU's working capital allowance included cash of \$877,289. OPC witness Merchant testified that the requested test year cash balance was excessive and represented an anomaly for the Utility. (TR 335) She specifically cited comparisons to the cash balance approved in KWRU's last rate case, which was \$666,869 lower, and the cash balance reflected in its 2015 Annual Report, which was \$515,752 lower. (TR 335) Witness Merchant asserted that building a major plant expansion did not support the need for such a large balance of cash. (TR 335) The 13-month average cash balance based on available data from 2016 during the time frame of activity on the pro forma plant expansion is \$317,978. (EXH 52, BSP 103; EXH 55, BSP 166, 189-190; EXH 56, BSP 1563; EXH 62, BSP 1615) Staff believes this balance is more reflective of ongoing Utility operations and recommends that cash be decreased by \$559,311.

Deferred Rate Case Expense

In its revised MFRs, KWRU reflected deferred rate case expense of \$197,325 in its working capital calculation. As discussed in Issue 26, staff has recommended total rate case expense of \$430,828. It is Commission practice to include one-half of the approved amount of rate case expense in the instant docket in working capital under the balance sheet method. Consistent with Commission practice, the amount of deferred rate case expense to include in working capital is \$215,414. As such, staff recommends that working capital be increased by \$18,089.

Miscellaneous Deferred Debits

In its updated filing, the Utility included a working capital adjustment from the PAA Order that reflected the fees associated with Last Stand litigation as a deferred debit in the amount of \$397,093. (EXH 17, P 3) However, the balance incorrectly reflected an additional year of amortization, as it was figured into the Utility's initial adjustment. As discussed in Issue 28, staff has recommended further adjustments to the annual amortization of the deferred legal fees. The total effect of both adjustments is an increase of \$63,373 to miscellaneous deferred debits. As discussed in Issue 27, staff has also recommended the removal of accounting fees associated with restating previous annual reports. Therefore, miscellaneous deferred debits should be decreased by \$56,750. The net effect is an increase to miscellaneous deferred debits of \$6,623 (\$63,373 - \$56,750).

CONCLUSION

Based on the above, the appropriate working capital allowance is \$923,671. Accordingly, working capital should be decreased by \$534,599 ($-\$559,311 + \$18,089 + \$6,623$).

Issue 13: What is the appropriate rate base? (Fall-out)

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: Consistent with other recommended adjustments, the appropriate rate base is \$2,601,197.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: This is a fall-out calculation.

A. For Phase I, if applicable

OPC: The appropriate rate base for Phase I should be \$127,273.

County: Agree with OPC that the appropriate Phase I rate base is \$127,273.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: The appropriate Phase II rate base should be \$604,323.

County: Phase II rate base should be approximately \$57,487, which is OPC's recommended rate base value of \$604,323 for 2016 less additional CIAC for 2017 of \$546,836. See Issue 8.

Harbor Shores: Agrees with OPC.

Staff Analysis: Based on staff's recommended adjustments, the appropriate rate base to be used in setting rates is \$2,601,197. The schedule for rate base is attached as Schedule No. 1-A, and the adjustments are shown on Schedule No. 1-B.

Issue 14: What is the appropriate capital structure to be used in setting rates?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate amounts of long-term debt, equity, and customer deposits to include in the capital structure are \$3,500,000, \$1,765,366, and \$162,972, respectively.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: For the single phase, the pro forma plant will be 100% equity financed, and the BB&T Debt has increased to 4.25%
Long Term Debt - \$1,063,865, 18.74% ratio, 4.25% cost rate
Common Equity - \$4,450,994, 78.369% ratio, 9.18% cost rate
Customer Deposits - \$162,972, 2.87% ratio, 2% cost rate

A. For Phase I, if applicable

OPC: The 2014 capital structure consisted of \$395,434 of 4% debt to BB&T; \$852,903 of 6% affiliate debt; \$162,972 in 2% customer deposits; negative equity of \$276,537, with a \$3.5 million pro forma increase to equity to fund the WWTP expansion. For Phase I, the debt for the affiliate debt should be equal to the arms-length BB&T debt, the negative equity balance should be zero, and the pro forma equity adjustment should be disallowed.

County: Agree with OPC that the capital structure for Phase I should consist of \$395,434 of debt to BB&T at 4%.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: For Phase II, the capital structure should be updated to reflect the most current level of financing for 2016. The \$2,041,903 in equity infusions in 2016 should offset the August 2016 negative equity balance (\$1,051,663) for a net equity balance of \$989,240. Pro forma debt should be \$3,000,000 for BB&T loans at 4%, and customer deposits of \$162,972 at 2% are appropriate.

County: Agree with OPC that for Phase II, the capital structure should be updated to reflect the most current level of financing for 2016: an equity balance of \$989,240, pro forma debt of \$3,000,000 for BB&T loans at 4% and customer deposits of \$162,972 at 2%.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In its brief, KWRU stated that this issue is a fall-out calculation based on its proposed 100 percent equity financing of pro forma plant additions. (EXH 79, P 10; KWRU BR 16) The Utility asserted that it has proven that it has used equity to finance the pro forma plant expansion through equity infusions and the reclassification of affiliate debt to equity. (EXH 81)

OPC

OPC witness Merchant testified that KWRU's actual 2014 capital structure consisted of \$395,434 of debt to BB&T at 4 percent (variable rate of prime plus 0.75 percent); \$852,903 debt at 6 percent (fixed) to WS Utilities, an affiliate of the Utility; \$162,972 in customer deposits at 2 percent; a negative equity balance of \$276,537 with a \$3.5 million pro forma increase to equity to fund the WWTP expansion. (TR 346; OPC BR 22) OPC asserted that for Phase I, the affiliate debt cost should be equal to the arms-length debt cost with BB&T, the negative equity balance should be zero, and the pro forma equity adjustment should be disallowed to correspond with the removal of pro forma plant. (TR 348; EXH 24; OPC BR 22)

For the Phase II capital structure, OPC witness Merchant testified that, in addition to the Phase I adjustments, the Utility's pro forma adjustment to equity should be considered debt until the Utility can demonstrate that all of the pro forma adjustments will be infused as equity. (TR 348-349; OPC BR 23) OPC asserted that the Utility's equity infusions made in May, June, and August, 2016, should be allowed only to the extent that those infusions offset the actual negative equity balance on KWRU's books. (OPC BR 23) OPC explained that as of August 2016, the Utility's negative equity balance was \$1,051,663 and its reported equity infusions (shareholder contributions) totaled \$2,041,903. (TR 349; EXH 62, P 1615; OPC BR 23-24)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC on Phase I and II. (County BR 24-25; Harbor Shores BR 2)

ANALYSIS

In its updated filing, the Utility reflected long-term debt of \$1,248,337, negative equity of \$276,537, and customer deposits of \$162,972 in the 2014 test year. (EXH 17, P 11) The Utility also included a pro forma adjustment to increase equity by \$4,910,177 to reflect an equity infusion that would pay for the pro forma plant expansion. (EXH 17, P 11) Pursuant to Rule 25-30.311, F.A.C., KWRU included a cost rate of 2.00 percent for customer deposits. (EXH 17, P 11) Consistent with staff's position in Issue 3, several adjustments are appropriate in order to reflect known and measurable changes in the composition of the Utility's capital structure.

As testified by OPC witness Merchant, KWRU's long-term debt in the test-year consisted of \$395,434 of debt to BB&T at an interest rate of prime plus 0.75 percent, which equated to 4.00 percent in the test year, and affiliate debt from W.S. Utilities of \$852,903 with an interest rate of 6.00 percent. (EXH 346) However, in June 2016, the Utility stopped making regular payments of

interest on the WS Utilities debt and reclassified it as equity. (EXH 81) KWRU also refinanced the BB&T debt in July 2016 which paid off the balance of the original note with a new note in the amount of \$1,000,000. (EXH 83) Accordingly, long-term debt should be adjusted to reflect these two documented changes in capital structure. A corresponding adjustment should be made to increase long-term debt to reflect the refinanced \$1,000,000 BB&T note. Using the Utility's general ledger as of August 30, 2016, staff verified that the proceeds of the refinanced note were made available and used by KWRU in the capital operating account that is used for pro forma plant expansion expenditures. (EXH 62, P 1615) This treatment is contrary to KWRU witness Swain's understanding of the note as a line of credit. (TR 819)

In September 2016, KWRU obtained another note through BB&T in the amount of \$2,500,000. (EXH 83) This note was also characterized by witness Swain as a line of credit that the Utility did not necessarily plan to use and that funds available from new lines of credit should not be included as there has been no use of those funds. (TR 819) However, the loan documents provided by KWRU indicate an initial loan disbursement of \$741,000 with \$686,424 being wired directly to the Borrower. (EXH 83) Given the timing of this new debt issuance, staff was not able to verify any further details with the most recent general ledger as the record closed before any additional general ledgers were made available. The Loan Agreement included in the Utility's documentation of the additional note specifies that the purpose of the term loan is for the expansion of wastewater treatment plant and reflects a repayment schedule of five years for the loan payment. (EXH 83) KWRU witness Swain agreed that a debt-to-equity conversion is considered a known and measurable change and admitted that the two new promissory notes were lines of credit fully available for the Utility to use at any time it deemed necessary. (TR 817) Staff believes the loan documentation provided by KWRU supports the inclusion of the entire amount of the additional note, especially in light of the conflicting Utility testimony regarding the use of additional debt. As such, staff recommends that long-term debt should also be increased by \$2,500,000 for a total \$3,500,000 of long-term debt.

Due to the conversion of affiliate debt to equity, equity should also be increased by \$852,903. Documentation of additional equity infusions of \$659,000 in May 2016 and \$530,000 in August 2016 should also be included as pro forma adjustments to equity. (EXH 81) KWRU witness Swain testified that the Utility made another capital contribution of equity of \$1,100,000 in October 2016. (TR 851) Beyond witness Swain's assertion, there is no other documentation to support making this further adjustment to equity. Witness Swain testified that she did not think that the Commission has discretion to do something different than what the management is indicating their intention is in regard to financing plant. (TR 820) However, the intentions of KWRU's management are contradicted by support documentation provided by the Utility which makes it somewhat problematic to identify known and measurable changes. Based on documented transactions, staff recommends a net increase to equity of \$2,041,903 which results in \$1,765,366 of equity for rate setting.

CONCLUSION

Based on staff's adjustments to capital structure, the appropriate amounts of long-term debt, equity, and customer deposits to include in the capital structure are \$3,500,000, \$1,765,366, and \$162,972, respectively.

Issue 15: What is the appropriate return on equity? (Partially stipulated)

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: Based on the Commission leverage formula currently in effect and an equity ratio of 33.53 percent, the appropriate return on equity (ROE) is 11.16 percent. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: The appropriate return on equity is 9.18% based upon the capital structure (see Issue 14) as determined pursuant to PSC Order No. PSC-16-0254-PAA-WS (leverage formula).

A. For Phase I, if applicable

OPC: Because the negative balance of equity has been set to zero, the ROE for Phase I rates should be 11.16%, with an allowed range of plus or minus 100 basis points.

County: Agree with OPC that the appropriate return on equity for Phase I sales should be 11.16% with an allowable range of plus or minus 100 basis points.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Using the equity ratio after the pro forma adjustment to infuse equity and recognize the new debt issuances, the resulting equity ratio is 20%. Accordingly, the ROE for Phase II should be 11.16%, with an allowed range of plus or minus 100 basis points. If the Commission approves an equity ratio higher than 40%, the leverage formula will generate a corresponding lower cost of equity.

County: Agree with OPC that the appropriate return on equity for Phase II sales should be 11.16% with an allowable range of plus or minus 100 basis points.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

Based on the capital structure, the appropriate return on equity is calculated according to the leverage formula, as set forth in Order No. PSC-16-0254-PAA-WS. (KWRU BR 17)

OPC

OPC stated that the ROE for Phase I and II rates should be 11.16 percent, with an allowed range of plus or minus 100 basis points, based on its position on capital structure adjustments in Issue 14 and consistent with Stipulation 15. (OPC BR 24)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC on Phase I and II. (County BR 25; Harbor Shores BR 2)

ANALYSIS

The ROE requested in the Utility's updated rate increase request is 9.17 percent. (EXH 17, P 10) This return was based on the application of the Commission's leverage formula approved in Order No. PSC-16-0254-PAA-WS¹⁸ and an equity ratio of 76.28 percent. (EXH 17, P 10)

Staff believes the Utility's proposed return on equity of 9.17 percent should be updated to reflect the leverage formula in effect when the Commission makes its final decision, as approved in Stipulation 15. Including adjustments discussed in Issue 13, the recommended amount of debt and equity yield an equity ratio of 33.53 percent. Based on the approved methodology and an equity ratio of 33.53 percent, staff recommends an ROE of 11.16 percent. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

CONCLUSION

Based on the Commission leverage formula currently in effect and an equity ratio of 33.53 percent, the appropriate ROE is 11.16 percent. Staff recommends an allowed range of plus or minus 100 basis points be recognized for ratemaking purposes.

¹⁸ 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 16: What is the appropriate cost of long-term debt?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate cost rate for long-term debt is 4.00 percent.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: 4.25%.

A. For Phase I, if applicable

OPC: The appropriate cost of debt for Phase I should be 4% for both the BB&T and the WS Utilities debt. No pro forma adjustments are appropriate for Phase I.

County: Agree with OPC that the appropriate cost of long-term debt for Phase I is 4%.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: The appropriate cost of debt for Phase II should be 4% for both BB&T promissory notes. The WS Utilities debt has been converted to equity and should be removed from the capital structure.

County: Agree with OPC that the appropriate cost of long-term debt for Phase II is 4%.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In its brief, KWRU stated that a 4.25 percent cost is appropriate based on current loan rates provided by BB&T that reflect an interest rate of 0.75 percent over prime. (TR 775; KWRU BR 17)

OPC

OPC witness Merchant testified that the 2014 test year debt cost for the BB&T loan was prime plus 0.75 percent. (TR 299, 346) In its brief, OPC stated that, because the prime rate was 3.25 percent in 2014, a 4.00 percent cost rate is appropriate to use for both the BB&T and the WS Utilities debt for Phase I. (OPC BR 25)

Witness Merchant used a 4.25 percent cost rate for Phase II which at that time was the BB&T debt from the historical test year. (TR 299, 348-349; OPC BR 25) OPC contended that, subsequent to witness Merchant's testimony, KWRU obtained \$3.5 million in new debt issuances that were not included in the Utility's rebuttal testimony. (TR 396-397; OPC BR 25) OPC stated that the appropriate cost of debt for Phase II should be 4.00 percent (prime rate plus 0.50 percent) for the two new BB&T promissory notes for \$1,000,000 and \$2,500,000 issued in July and September 2016, respectively. (EXH 83; OPC BR 25) OPC asserted that the Utility refinanced and retired the BB&T note for \$302,053 when it obtained a new BB&T note in July. (EXH 83; OPC BR 25) OPC stated that the affiliate debt from WS Utilities should be removed from the capital structure. (EXH 29; OPC BR 25) OPC asserted that these are known and measurable events by KWRU that occurred in 2016 that will be used to fund the plant expansion costs and that the current prime rate of interest is 3.50 percent. (EXH 29; OPC BR 25)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC on Phase I and II. (County BR 25; Harbor Shores BR 2)

ANALYSIS

Based on staff's adjustments to capital structure in Issue 14, long-term debt is comprised of the two new BB&T promissory notes issued in July and September 2016. As such, staff believes the corresponding cost of long-term debt should reflect the cost rates associated with the two notes, which is prime rate plus 0.50 percent. (EXH 83) KWRU witness Swain testified that current loan rates provided by BB&T reflect an interest rate of 0.75 percent over prime. (TR 775) However, witness Swain's testimony did not reflect the additional debt issuances. Thus, her testimony does not reflect "current" loan rates. Using the prime rate of interest of 3.50 percent, as supported in OPC's testimony and testified by KWRU witness Swain, staff recommends that the cost rate of long-term debt should be 4.00 percent. (TR 775; EXH 29)

CONCLUSION

Based on the above, the appropriate cost rate for long-term debt is 4.00 percent.

Issue 17: What is the appropriate weighted average cost of capital based on the proper components, amounts, and cost rates associated with the capital structure for the test year period? (Fall-out)

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: Based on the resolution of the previous issues, the appropriate weighted average cost of capital, including the proper components, amounts, and cost rates associated with the capital structure, is 6.12 percent.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: 8.06%.

A. For Phase I, if applicable

OPC: The appropriate overall rate of return for Phase I rates should be 3.39%.

County: Agree with OPC that the appropriate overall rate of return for Phase I rates should be 3.39%.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: The appropriate overall rate of return for Phase II rates should be 3.53%.

County: Agree with OPC that the appropriate overall rate of return for Phase II rates should be [3.53%].

Harbor Shores: Agrees with OPC.

Staff Analysis: This is a fall-out issue. In its updated filing, KWRU originally proposed an overall cost of capital of 8.06 percent for the test year. (EXH 79, P 10) The Utility acknowledged that its proposed weighted average cost of capital is a fall-out calculation of its proposed pro forma adjustment that reflects 100 percent equity financing of pro forma plant additions, as well as the capital structure set forth in preceding issues. (KWRU BR 18) Based on the resolution of the preceding issues, the recommended capital structure yields an overall cost of capital of 6.12 percent. Schedule No. 2 contains staff's recommended capital structure.

Issue 18: Should the members of Harbor Shores Condominium Unit Owners Association, Inc. (Harbor Shores) be classified as Residential customers or a General Service customer?

Recommendation: Staff recommends that Harbor Shores be classified as a general service customer, but should continue to be billed a base facility charge (BFC) based on 69 equivalent residential connections (ERCs) and a gallonage charge with a 10,000 gallon cap per ERC.. (Johnson)

Position of the Parties

KWRU: Based on each residential unit having an FKAA residential water meter, Harbor Shores residential units should be classified as residential customers.

OPC: The Commission must decide whether a homeowners' association (HOA) like Harbor Shores, which is contractually required to pay the wastewater bills on behalf of all HOA members, should be classified as a general service customer. Harbor Shores has master meters and sub-meters. The wastewater bills have been paid by Harbor Shores, and not by the individual customers. Further, KWRU does not have any utility easement to enter private HOA property to shut-off customers for non-payment.

County: No position.

Harbor Shores: Harbor Shores is a General Service Customer because the HOA has been responsible for paying charges for all 69 units since 2007 per our Agreement with KWRU. The President of KWRU, Chris Johnson, stated during the Hearing on 11/8/16 that the whole Park will be shut down if the HOA does not pay for one single Unit, and that solidifies our position that we are "One General Service Customer" since the Rate Case in 2009.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU asserted that the Harbor Shores residents should be considered residential customers because each individual home has a separate FKAA water meter. In addition, the Utility argued that, per the developer agreement, the Harbor Shores Association is billed all regular residential charges of the unit owners. KWRU claimed that the Utility has the authority to discontinue service to an individual resident of Harbor Shores pursuant to the Rule 25-30.320(2)(f), F.A.C. and the Utility's tariff. KWRU stressed these factors as evidence that Harbor Shores' residents should be considered residential customers of the Utility. However, KWRU concluded that the appropriate adjustments should be made to the billing determinants for the determination of final rates if Harbor Shores is classified as a general service customer. (KWRU BR 18)

OPC

OPC argued that Harbor Shores is responsible for payment of all wastewater bills on the behalf of Harbor Shores' residents. OPC asserted that KWRU has no easements within Harbor Shores and states that the property rights for KWRU were intentionally omitted from the agreement

between Harbor Shores and the Utility. OPC added that other customers within KWRU's service area that are in similar situations, such as Sunset Marina, Meridian West, and Flagler Village, are classified as general service customers. OPC concluded that if Harbor Shores is classified as a general service customer, the Commission should consider the impact reclassification would have on billing determinants and rate design. (OPC BR 26)

County

No position.

Harbor Shores

Harbor Shores contended that instead of being considered 69 residential customers, Harbor Shores should be designated one general service customer and lists several reasons defending their position. First, Harbor Shores has been paying the monthly charges for all 69 units since 2009. (EXH 103, BSP 4) Harbor Shores has two master meters from which FKAA reads and deducts the 69 individual sub-meter readings. (EXH 89) Harbor Shores argued that KWRU only has the right to shut off the master meter and does not have rights to shut off individual residents from wastewater service. (TR 697-701) Harbor Shores submitted that the HOA meets the definition of a customer as set forth in the Utility's tariff and Rule 25-30.210, F.A.C. Harbor Shores also added that precedent has been set by similar associations with condominiums, modular, manufactured, or mobile homes on Stock Island that have been classified general service customers. (TR 625-626) Harbor Shores concluded that all the aforementioned factors make it abundantly clear that Harbor Shores should be one general service customer instead of 69 residential customers. (Harbor Shores BR 2-5)

ANALYSIS

As outlined above in the Parties' arguments, KWRU believes that Harbor Shores should be billed based on individual residential meters. Harbor Shores believes the HOA is the customer and should be billed based on its two FKAA master meters rather than 69 individual residents living within the Harbor Shores community. Pursuant to Rule 25-30.210(1), F.A.C., a customer shall mean any person, firm, association, corporation, governmental agency, or similar organization who has an agreement to receive service from the utility. KWRU's tariff defines a customer as "any person, firm or corporation who has entered into an agreement to receive service from the company and who is liable for the payment of the service." (TR 703-704)

The agreement between KWRU and Harbor Shores provides that Harbor Shores will pay the applicable fees, rates, and charges as set forth in the Utility's tariff for the monthly service. (EXH 103) In addition, KWRU holds Harbor Shores as the guarantor for payment of the bills instead of the 69 individual residents of Harbor Shores. (TR 699-700) Staff believes that Harbor Shores is the customer of record because Harbor Shores holds the agreement for service and is held liable for the payment of that service. Staff does not agree with KWRU that Rule 25-30.320(2)(f), F.A.C. and the Utility's tariff give KWRU the right to discontinue service to the individual customers. Both the rule and the tariff refer to the "customer," and in this instance Harbor Shores is the customer, not the individual residents of Harbor Shores.

Harbor Shores has two FKAA master meters that measure all water flows to the Harbor Shores community and its residents. (EXH 89) Harbor Shores believes the HOA should be billed a

lower rate based on the meter equivalents for its two FKAA master meters, which is 16 ERCs, much less than the 69 ERCs for the total individual units. (EXH 89) In the past, the Commission has analyzed the demand behind a master meter to determine if it is equitable, based on demand and demographics, to be billed based on the meter size for communities such as Harbor Shores.¹⁹ As testified to by witness Johnson, Harbor Shores is a unique situation unlike Sunset Marina, Meridian West, and Flagler Village, because the residences within Harbor Shores are individually metered by the FKAA. (TR 166-167; TR 626-627)

KWRU's agreement with Harbor Shores specifies that each unit owner was responsible for paying the Utility's approved tariff charge of \$2,700 per ERC for a total of 69 ERCs of capacity reservation. (EXH 103) Staff believes that Harbor Shores should be billed as a general service customer based on 69 ERCs to reflect the capacity Harbor Shores reserved when the system capacity charges were paid. Staff believes that if billing is allowed based on the size of the two FKAA meters, then the Utility would not be adequately compensated for the demand Harbor Shores' residents are placing on the system. Therefore, Staff recommends that Harbor Shores' rate structure should consist of a BFC based on 69 ERCs and a gallonage charge with a 10,000 gallon cap per ERC as shown on Schedule No. 4.²⁰ Billing Harbor Shores a rate based on 69 ERCs should ultimately result in no overall change to Harbor Shores' bill.

CONCLUSION

Based on the above, staff recommends that Harbor Shores should be classified as a general service customer, but should continue to be billed a BFC based on 69 ERCs and a gallonage charge with a 10,000 gallon cap per ERC.

¹⁹ See Order Nos. PSC-16-0525-PAA-WS, in Docket No. 160030-WS, issued November 21, 2016 *In re: Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC.*; PSC-15-0142-PAA-SU, in Docket No. 130178-SU, issued March 26, 2015 *In re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company.*

²⁰ Id.

Issue 19: What are the appropriate bills and gallons to use to establish test year revenues and rates? (Partially stipulated)

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate bills and gallons to use to establish test year revenue and rates are reflected in Stipulation 9, which addresses test year revenues.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Friedrich)

Position of the Parties

KWRU: As stated in the PAA Order.

A. For Phase I, if applicable

OPC: For Phase I, it is appropriate to use the billing determinants approved in the PAA Order. Although it is evident that the 2015 and 2016 revenues and billing determinants were higher than those in the 2014 test year, OPC's revenue requirement calculations based on the PAA Order billing determinants are reasonable for setting Phase I rates.

County: Agree with OPC that the number of bills and gallons used to set Phase I rates in the PAA Order are reasonable, although understated because they do not accurately reflect growth in bills and gallons consistent with KWRU's projected growth rate of 7.06 percent per year.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Consistent with OPC's adjustments to Phase II revenues and to comply with the matching principle, 2016 billing determinants should be increased to reflect projected customers and consumption that will be online for the first year of operation of the WWTP expansion. The actual increase in 2015 revenues should be used to estimate bills and gallons by customer class and the 2015 levels should be escalated by 5%, consistent with OPC's used and useful projection.

County: The appropriate numbers of bills and gallons to be used in establishing Phase II revenue requirements and setting KWRU's new permanent Phase II Rates are, consistent with the principle that rates must be based on costs and sales during the time when rates are to be in effect, as follows:

Bills: 22,523
Gallons: 246,405,390 (246,405 kgal)

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU stated that the appropriate bills and gallons to use to establish test year revenue and rates are stated in the PAA Order and reflected in Stipulation 9. (TR 778)

OPC

In its brief, OPC contended that the appropriate bills and gallons to use to establish test year revenue and rates for Phase I are the billing determinants that were approved in the PAA Order. (OPC BR 27) OPC noted that the revenues and billing determinants of 2015 and 2016 are higher than in the 2014 test year. (TR 353) OPC argued that for Phase II, the test year revenue adjustments are consistent with the matching principle and the bills and gallons used to calculate Phase II rates should be increased to accurately depict the projected level of customers that will be connected during the initial operation year of the wastewater treatment expansion. (TR 380) OPC recognized that the Utility's 2015 Annual Report depicted an increase in revenues since 2014 of 12 percent. (EXH 65; EXH 28) OPC argued that the increase in 2015 revenues should be used to estimate the number of bills and gallons by customer class. This will reestablish the number of 2015 bills and gallons to maintain consistency with the method used by the Commission in the PAA Order. (TR 380) To determine the appropriate 2016 billing determinants, OPC stated the 2015 levels should be increased by five percent, consistent with OPC witness Woodcock's used and useful projection. (TR 380; EXH 20) Exhibit PWM-3, Schedule 4-B illustrates OPC's calculations for 2016 bills and gallons. (TR 351-354; EXH 25; EXH 28) OPC asserted the escalated 2016 bills and gallons are appropriate for setting Phase II rates for the Utility.

County

The County agreed with OPC on the number of bills and gallons used to set Phase I rates consistent with Stipulation 9. (County BR 26) In addition, the County asserted 22,523 bills and 246,405,000 gallons are appropriate in setting Phase II rates as stated in OPC witness Merchant's testimony. (EXH 25; EXH 28) Additional gallonage values were identified by County witness Santamaria of 87,810 gpd and Utility witness Castle of 82,250 gpd which equates to 30,000,000 to 32,000,000 per year. (TR 467) If these additional gallons were added to witness Merchant's test year gallons of 213,338,000 on PMW-2 page 9 of 9, the total would be close to the annual projected gallonage value for 2017 of 246,405,390. (County BR 28) The County alternatively advised for the growth estimate of 7.06 percent provided by KWRU witness Johnson to be utilized instead of the five percent witness Merchant used to project the bills and gallons for setting Phase II rates. (County BR 28-29)

Harbor Shores

In their brief, Harbor Shores agreed with OPC's position on this issue. (Harbor Shores BR 2)

ANALYSIS

The appropriate bills and gallons to use in establishing test year revenue and rates are reflected in Stipulation 9, which addresses Phase I test year revenues. As discussed in Issue 2, staff does not believe it is necessary for the Commission to approve Phase II test year bills and gallons as advocated by OPC and the County.

Issue 20: What is the appropriate amount of miscellaneous revenues to be included in test year revenues and rates? (Partially stipulated)

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate amount of miscellaneous revenues to be included in test year revenue and rates is \$72,619, as reflected in Stipulation 9 which addresses test year revenues.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Friedrich)

Position of the Parties

KWRU: As stated in the PAA Order, increased for the increase in miscellaneous rates.

A. For Phase I, if applicable

OPC: See Stipulation 9.

County: Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Phase II projected 2016 miscellaneous revenues should be \$86,421. Starting with the actual 2015 miscellaneous revenues of \$104,651, removing the \$19,500 received for reuse testing from MCDC, reducing the MCDC Lift Station cleaning income by \$2,081 to match the PAA tariff rate, then escalating the remaining miscellaneous revenue by 5%, an increase of \$3,276, results in an increase to adjusted miscellaneous revenues of \$13,802. Additionally, 2016 reuse revenues, at a minimum, should be \$61,098.

County: The appropriate amount of miscellaneous revenues for Phase II is at least \$86,421, as supported by OPC Witness Merchant. A better estimate is Witness Merchant's value escalated by 7.06 percent, KWRU's best estimate of growth, which value is \$92,522.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU stated the appropriate miscellaneous revenues to be included in test year revenues and rates are in the PAA Order, but should be increased to reflect the incremental increase in its proposed miscellaneous service charges. The proposed miscellaneous service charges include a portion of benefits and insurance in each charge applicable to the appropriate employee. (EXH 95; TR 252-53) The Utility argued this methodology ensures that the proportion of benefits and insurance attributable to directly-billable labor is not subsidized by customers who do not receive the services. (TR 254)

OPC

In their brief, OPC explained the appropriate amount of miscellaneous revenues to be included in test year revenues and Phase I rates are reflected in stipulation 9. (OPC BR 28) OPC asserted that adjustments should be made to the Utility's 2015 general ledger miscellaneous revenues of \$104,651. (OPC BR 28) In determining the appropriate miscellaneous revenues for Phase II rates, OPC witness Merchant adjusted aspects of the Utility's miscellaneous revenue such as Monroe County Detention Center (MCDC) Income, water testing, and reuse revenue. In addition, to calculate the remaining components, miscellaneous revenues were increased for Phase II rates by a growth factor of five percent. (TR 357-359; EXH 25) Witness Merchant utilized this same growth factor in OPC's pro forma 2016 Phase II rate projections. (TR 358; EXH 25) Therefore, OPC contended the appropriate miscellaneous revenues to be included in test year revenues is \$86,421. (EXH 25; OPC BR 28)

County

In their brief, the County agreed with OPC's position on this issue. (County BR 29-30) In addition, the County conceded the appropriate amount of miscellaneous revenues to be included for test year revenues for Phase II rates is at least \$86,421 as also supported by witness Merchant. (TR 357-358)

According to the County, it is more appropriate to use KWRU's estimation growth of 7.06 percent per year along with witness Merchant's projected miscellaneous revenues of \$86,421 which results in \$92,522 of miscellaneous revenues to be included in test year revenues for Phase II. (EXH 25)

Harbor Shores

In their brief, Harbor Shores agreed with OPC's position on this issue. (Harbor Shores BR 2)

ANALYSIS

The appropriate amount of miscellaneous revenues to be included in Phase I test year revenue and rates is \$72,619, as reflected in Stipulation 9 which addresses test year revenues. As discussed in Issue II, staff does not believe it is necessary for the Commission to approve Phase II miscellaneous revenues as advocated by OPC and the County. However, in Issue 32, staff recommends the appropriate miscellaneous revenues to remove prior to designing service rates.

Issue 21: What is the appropriate amount of test year revenues for KWRU's wastewater system? (Fall-out) (Partially stipulated)

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate amount of test year revenues are \$1,534,799, as reflected in Stipulation 9. Accordingly, KWRU's reflected test year revenues of \$1,554,861 should be reduced by \$20,062.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Friedrich)

Position of the Parties

KWRU: Stipulation.

A. For Phase I, if applicable

OPC: The test year revenues for Phase I before any revenue increase should be \$1,534,799.

County: Agree with OPC that the appropriate Phase I test year revenues should be \$1,534,799.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Phase II test year revenues for before any revenue increase should be \$1,701,630.

County: The appropriate Phase II test year revenues should be at least \$1,786,711, which is 5 percent greater than the amount recommended by OPC based on a 2016 test year, in order to reflect the fact that KWRU's sales are likely to be 5 to 7 percent greater in 2017, when the new rates will be in effect, than in 2016.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU agreed with Stipulation 9, which stated test year revenues are \$1,534,799 (KWRU BR 19)

OPC

OPC stated the appropriate amount of test year revenues for Phase I rates for KWRU's wastewater system are \$1,534,799, as set forth in Stipulation 9. (OPC BR 29) The appropriate amount of test year revenues for Phase 2 rates are \$1,701,630. (EXH 68; OPC BR 29)

County

The County believes the appropriate Phase I test year revenues should be \$1,534,799. (County BR 30) However, the County argued the appropriate amount of test year revenues for KWRU's wastewater system for Phase II should be at least \$1,786,711, which is five percent greater than the recommended amount by OPC based on a 2016 test year. The County argued that KWRU's sales are anticipated to be five to seven percent greater in 2017 when the new rates will be going into effect. The County believed that Phase II rates should not go into effect until the new key assets are serving customers. (County BR 31)

Harbor Shores

In its brief, Harbor Shores agreed with OPC's position on this issue. (Harbor Shores BR 2)

ANALYSIS

In its updated filing, KWRU reflected test year revenues of \$1,554,861. The appropriate amount of Phase I test year revenues are \$1,534,799, as reflected in Stipulation 9. Accordingly, staff recommends that test year revenues be reduced by \$20,062. As discussed in Issue 2, staff does not believe it is necessary for the Commission to approve Phase II miscellaneous revenues as advocated by OPC and the County.

Issue 22: What adjustments, if any, should be made to account for the audit adjustments in each of Staff’s Audit Findings 3, 4, 5, 10, and 11 to operating expenses? (Stipulations 3, 4, 5, and 10) (Norris)

Approved Stipulations: O&M expenses (contractual services-other) should be increased by \$1,200 for survey fees based on the Staff Audit Finding 3. Test year amortization of CIAC should be decreased by \$14,003 based on Staff Audit Finding 4. Depreciation expense should be decreased by \$5,489, based on Staff Audit Finding 5. O&M expenses should be decreased by \$4,512, based on Staff Audit Finding 10 and \$6,276, based on Staff Audit Finding 11. The stipulated adjustments to operating expenses are set forth in Table 22 below.

**Table 22-1
 Stipulated Adjustments to Operating Expense**

Stip.	Audit Finding	O&M Expense	Depreciation Expense	CIAC Amortization Expense	Total
3	3	\$1,200	\$0	\$0	\$1,200
4	4	0	0	14,003	14,003
5	5	0	(5,489)	0	(5,489)
10	10	(4,512)	0	0	(4,512)
10	11	<u>(6,276)</u>	<u>0</u>	<u>0</u>	<u>(6,276)</u>
	Total	<u>(\$9,588)</u>	<u>(\$5,489)</u>	<u>\$14,003</u>	<u>(\$1,074)</u>

Issue 23: What are the appropriate annual levels of O&M expenses for implementing advanced wastewater treatment (AWT)?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate level of O&M expenses to reflect the implementation of AWT operations is \$1,647,853. Accordingly, pro forma O&M expense should be decreased by \$341,471.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Hill, Graves, Norris)

Position of the Parties

KWRU: For a single phase, \$2,220,932, plus amortization of additional actual rate case expense.

A. For Phase I, if applicable

OPC: Since KWRU did not implement AWT until January 2016, Phase I O&M should be no greater than the actual/annualized expense levels for 2016. January-April 2016 expense accounts should be annualized for a full year, and treatment-related expenses should be multiplied by 3.25 to recognize increased year-end flows. Adjustments should reduce O&M by \$89,371 (e.g., stipulations, affiliate management fees, accounting/engineering fees, insurance, and rate case expense). Total Phase I O&M should be decreased by \$301,461.

County: Agree with OPC that total Phase I O&M should be decreased by \$301,461.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Phase II O&M expenses should be \$1,809,082. Adjustments are appropriate for Stipulations 3 & 10, and Issues 24-28. Further reductions of \$10,028 and \$29,223 made in the PAA Order to reduce expenses to reflect OPC-adjusted consumption levels for the year the plant expansion is placed in-service are appropriate. Lastly, KWRU's pro forma expense increases of \$245,501 added in witness Swain's direct testimony should be disallowed as excessive and unsupported.

County: Agree with OPC that Phase II O&M expenses are \$1,809,082.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU argued that the estimates for O&M expenses contained within the revised MFRs accurately depict the O&M costs associated with operating the Utility once the expanded plant is in service. (KWRU BR 20) KWRU asserted that the expanded plant will necessitate additional costs regardless of flow levels and regardless of the causes of those flow levels. (KWRU BR 20) KWRU contended that simply calculating a cost per gallon, does not take into account the fixed costs associated with operating the expanded plant, including minimum chemical inputs and power. (TR 605-606; KWRU BR 20) KWRU witness Castle testified that once the expanded wastewater treatment plant is in operation, costs for these categories do not decrease proportionately with flows. (TR 576, 593; KWRU BR 20) KWRU elaborated that sludge hauling must be undertaken for three plants, rather than two, regardless of flow levels. (TR 576; KWRU BR 20) KWRU further argued that the operation of the plant requires the same amount of power, other than pumping power, and aeration and chemical feed rates do not decrease proportionately with flows. (TR 576; KWRU BR 20)

OPC

OPC argued that the PAA Phase I revenue requirement not only allowed a full level of pro forma O&M expenses to implement AWT for the existing plant, but also an increment for an additional amount of expenses to be incurred after the new plant expansion is placed into service. (TR 363-365; OPC BR 30) OPC asserted that because KWRU did not implement AWT on its existing plant until January 1, 2016, the historical test year does not include sufficient actual levels of costs to implement AWT on the existing plant. (OPC BR 30) OPC contended that Phase I O&M expenses for AWT implementation should be no more than the actual annualized levels incurred for 2016. (TR 363-365; OPC BR 30)

Lastly, OPC argued that Phase II O&M expenses should be \$1,809,082. (OPC BR 31) OPC asserted that Phase II O&M expense adjustments should reflect Stipulations 3 and 10, counting/engineering fees (Issue 24), management fees (Issue 25), rate case expense (Issue 26), amortization of accounting fees to correct the Utility's books and records for 2007-2011 (Issue 27), and the amortization of legal fees for the permit litigation fees incurred which should properly be capitalized (Issue 28; OPC BR 32).

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC on Phase I and II. (County BR 32; Harbor Shores BR 2)

ANALYSIS

KWRU requested pro forma expenses associated with upgrading its operations to meet AWT Standards required by Section 403.087(10), F.S., with a deadline of January 1, 2016. (TR 80-81) Section 367.081 (2)(a)2.c., F.S., provides that the Commission shall approve rates for service which allow a utility to recover the full amount of environmental compliance costs. Recognizing that the requested expenses are needed for compliance with the Utility's DEP Permit, staff

believes that KWRU should be permitted recovery of reasonable and prudent expenses associated with the AWT upgrade.

In its updated filing, the Utility requested a total of \$840,950 of pro forma O&M expense for estimated increases in the following expenses: salaries and wages, employee pension and benefits, general liability insurance, workmen's compensation insurance, sludge disposal, purchased power, chemicals, materials and supplies, contractual services-engineer, contractual services-testing, contractual services-other, and miscellaneous. (EXH 17, P 8) However, the Utility subsequently decreased its request by \$43,323 in its rebuttal testimony to correct an error in estimating the increase in general liability insurance (TR 777; EXH 79, P 6) Staff's recommended adjustments are discussed below.

Annualized AWT O&M Expense

As affirmed by KWRU witness Swain, the Utility's test year letter clarified that the AWT O&M expenses in its request were not growth related. (TR 806) KWRU operations were required to meet AWT Standards on January 1, 2016. (TR 80) Actual expense data for January 2016 through September 2016 was provided in response to discovery. (EXH 52, BSP 103; EXH 56, BSP 1563; EXH 62, BSP 1615) Therefore, the actual data through September 2016 can reasonably and adequately gauge O&M expenses associated with AWT operation.

OPC witness Merchant testified that it is appropriate to make pro forma adjustments for the implementation of AWT operation on the existing plant. (TR 365) Witness Merchant provided an estimate based on the actual data from January to April 2016. (TR 365) Witness Merchant multiplied the majority of the expense accounts by 3 to reflect a full year of expenses. (TR 365) For chemicals, purchased power and sludge hauling expenses, witness Merchant multiplied the first four months by 3.25 instead of 3 to recognize that the flows generally increase in the last quarter of the year. (TR 365)

In response to OPC's Phase I O&M expense adjustments, KWRU witness Swain testified that given the nature of pro forma expenses being estimated, the passage of time makes additional data available to rely on for evaluating original projections. (TR 775) Witness Swain further stated that it is appropriate to consider this new information in projections, as OPC witness Merchant did in her Phase I O&M adjustments. (TR 775) However, witness Swain ultimately asserted that the revised pro forma AWT O&M expenses in her rebuttal testimony were the appropriate level. (TR 775-777)

For Phase II O&M expenses, witness Merchant adjusted pro forma expenses provided by the Utility using another method. (TR 369) However, staff believes that witness Merchant's methodology for determining Phase I O&M expenses, which relies on known information for 2016, is adequate to evaluate the Utility's pro forma O&M expense request, as characterized in its test year letter. Similar to OPC, staff annualized the actual costs in order to determine a full year of costs. However, staff had the benefit of additional 2016 data.

Additionally, witness Merchant applied her Phase I methodology to all O&M expense accounts. (TR 365-366) Staff believes it is reasonable to evaluate the level of all O&M expenses in order to best reflect the total effect of upgraded AWT operations. Therefore, in addition to the expenses included in KWRU's pro forma request, staff also annualized expenses for contractual

services-accounting, contractual services-legal, and transportation in its analysis.²¹ However, for reasons addressed subsequently, staff does not believe this methodology is appropriate to evaluate the Utility's pro forma expense request for salaries and wages, pensions and benefits, and workman's compensation insurance.

For general liability insurance, contractual services-engineer, contractual services-accounting, contractual services-legal, contractual services-testing, contractual services-other, transportation, and miscellaneous expenses, staff performed a straight line annualized calculation. In other words, staff made no adjustments to these costs based on flows. This is consistent with the approach taken by witness Merchant and is supported by record evidence which identified costs that can be correlated to flows. (EXH 63, BSP 1642-1643)

For sludge disposal, purchased power, chemicals, materials and supplies, the annualized calculation was based on historic consumption patterns in order reasonably capture months of higher flows. Based on this review, flows for 2016 do not appear representative of a typical year. Therefore, staff increased costs to reflect flows based on historic growth rates. As with the previously discussed O&M accounts, staff's approach is consistent with the approach taken by witness Merchant and is supported by record evidence which identifies costs that can be correlated to flows. (EXH 63, BSP 1642-1643)

For the specific expenses discussed, the Utility's updated filing reflected a total pro forma increase of \$591,188 for AWT operations. (EXH 17, P 8) Staff believes the appropriate level of additional O&M expenses necessary to reflect AWT operations is the incremental difference between the annualized 2016 data and the 2014 adjusted test year amount for each expense. Staff compared this calculation to the Utility's pro forma request and recommends that pro forma O&M expenses should be decreased by \$337,708.

²¹ As of September 2016, the Utility had not incurred any building/property rental expense in 2016. (EXH 52, BSP 103; EXH 56, BSP 1563; EXH 62, BSP 1615) As such, staff did not adjust the test year amount due to the lack of data available at the time.

**Table 23-1
 Adjustments to Annualized Pro Forma O&M Expenses**

Expense Description	Annualized 2016 Total	Change over Adjusted Test Year	Utility Requested	Recommended Adjustment
Sludge Disposal	\$77,177	\$37,783	\$109,334	(\$71,551)
Purchased Power	173,548	26,837	81,164	(54,327)
Chemicals	184,229	151,899	257,071	(105,172)
Materials & Supplies	31,119	(12,549)	31,562	(44,111)
Contractual Services-Engr.	18,650	12,033	4,730	7,303
Contractual Services-Acct.	30,967	7,739	\$0	7,739
Contractual Services-Legal	6,018	4,519	\$0	4,519
Contractual Services-Testing	18,243	1,268	20,673	(19,405)
Contractual Services-Other	45,054	7,252	28,557	(21,305)
Transportation	24,092	1,064	\$0	1,064
Insurance-General Liability	41,444	5,496	50,023	(44,527)
Advertising Expense*	1,075	(1,439)	(1,564)	125
Miscellaneous Expense	44,684	11,577	9,638	1,939
Total	\$697,400	\$253,480	\$591,188	(\$337,708)

*The Utility's pro forma request reflects an adjustment to correct an error in the test year.

Source: EXH 52, BSP 103; EXH 56, BSP 1563; EXH 62, BSP 1615

Pro Forma Salaries

The Utility requested a pro forma increase of \$194,000 to salaries and wages expense for four additional field positions — an administrative assistant, a licensed operator, a system technician/mechanic, and a helper to assist with sludge removal. (EXH 9, P 97-98; EXH 17, P 8; EXH 49, BSP 15) Staff believes the inclusion of the new field positions are reasonable based on the additional labor requirements necessary to meet AWT standards. (EXH 9) The new administrative position is also reasonable given the additional administrative needs that will arise as a direct result of increased operations. (EXH 9)

As testified by KWRU witness Johnson, the Utility has lost numerous employees in the past few years to competitors. (TR 75) The Utility also provided a status update of the AWT positions, which included all other positions for the past two years that reflected employee turnover in 2016. (EXH 49, BSP 25) The Utility requested the additional AWT-related full-time positions based on the employment level in the 2014 test year. OPC annualized this expense, along with all others, in its Phase I revenue requirement calculation based on the premise that total Phase I O&M expense should not exceed the levels incurred in 2016 because it represented the increase in O&M expenses for the existing plant associated with operating at AWT standards. However, in its Phase II revenue requirement calculation, which reflects the inclusion of the pro forma plant expansion, OPC included salaries and wages expense associated with all four positions. As addressed in Issue 2, staff does not believe that two-phased rates are necessary in light of the estimated completion date of the pro forma plant expansion. Although useful to evaluate and adjust other AWT-related expenses, an annualized calculation of 2016 salaries and wages expense does not accurately reflect the expense associated with the total employment level

requested by KWRU and agreed upon by OPC in its Phase II revenue requirement. Therefore, staff believes it is not appropriate to adjust the Utility's pro forma request based on annualized 2016 salaries and wages expense.

Instead, staff evaluated the individual salaries that comprised KWRU's total pro forma salaries and wages expense. The Utility provided salary and wage comparisons to support the salaries for the positions it requested due to the needs of upgraded AWT operations. (EXH 49, BSP 23-24) The comparisons are adequate to support the requested salaries and are from local sources. KWRU witness Swain testified that the administrative assistant and the helper to assist with sludge removal had both been hired at \$46,000, which the Utility provided documentation to support. (TR 775-776; EXH 49, BSP 97; EXH 62, P 1615) Staff recommends an adjustment of \$4,000 to decrease the recommended salary of the administrative assistant to reflect the actual salary for the position. In addition, the salary of the sludge removal helper should be increased by \$2,000 to reflect the maximum of the range provided by the Utility. This results in a total decrease of \$2,000 to salaries and wages expense.

The Utility also included pro forma increases of \$47,135 to employee pension and benefits and \$8,627 to workman's compensation insurance. (EXH 17, P 8) KWRU explained that both adjustments directly corresponded to the additional salaries requested in its pro forma O&M expense. (EXH 27, P 1) As such, it is also inappropriate to use the annualized 2016 level of each expense to adjust the Utility's pro forma request because both expenses are directly dependent on staffing levels. The Utility's requested pro forma pensions and benefits expense is 24.0 percent of its requested salaries and wages expense and pro forma workman's compensation insurance is 4.4 percent, as compared to the historic test year percentages of 15.7 percent and 3.5 percent, respectively. Using 2016 levels of each expense results in a ratio of 20.4 percent and 3.4 percent for pension and benefits and workman's comp insurance, respectively. (EXH 52, BSP 103) Based on this comparative analysis, staff believes the percentage of the Utility's requested workman's compensation insurance expense is reasonable.

Additionally, KWRU witness Johnson justified the need for increased pensions and benefits, specifically in light of the turnover due to competitors. (TR 74-76) As such, staff believes that the ratios reflected in the Utility's pro forma request should be used to make corresponding adjustments to the decrease in salaries. Based on staff's recommended pro forma salaries and wages expense, the corresponding adjustment to employee pensions and benefits and workman's comp insurance expenses should be a decrease of \$1,055 and \$708, respectively.

CONCLUSION

Based on staff's recommended adjustments to pro forma AWT O&M expenses, the appropriate level of O&M expenses to reflect the implementation of AWT operations should be \$1,647,853. This total does not reflect the additional O&M expenses addressed in Issues 25-28. Accordingly, pro forma O&M expense should be decreased by \$341,471 (-\$337,708 - \$2,000 - \$1,055 - \$708).

Issue 24: What adjustments, if any, should be made to pro forma contractual services accounting and engineering fees?

Recommendation: Contractual services-accounting expense should be decreased by \$12,350. No adjustment is necessary for contractual services-engineering expense. (Hill, Sowards, Norris)

Position of the Parties

KWRU: None.

OPC: The \$12,350 pro forma increase for accounting services should be disallowed. The additional work performed in the test year did not warrant an increase on a going-forward basis and the Utility indicated that the increase in wastewater treated would not increase the prospective amount of accounting transactions relative to the amount of flows received. Engineering expense should also be decreased by \$653 to correct expenses for an invoice that was capitalized.

County: Agree with OPC that KWRU's proposed \$12,350 pro forma increase for accounting services should be disallowed and an additional disallowance of \$653 should be made to correct expenses for a capitalized invoice.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

The Utility stated that no adjustment should be made for contractual accounting and engineering fees. (KWRU BR 20) In its brief, KWRU cited the large number of documents requested during staffs audit as well as KWRU's limited staff available for in-house accounting services as justifiable reasons for the increase in contractual services accounting. (EXH 9, P 4, 96; KWRU BR 22) The Utility also stated that the in-house staff does not possess the skills and experience necessary to provide the functions of a Certified Public Accountant (CPA). As a result, the increased cost in contractual services accounting are necessary. (EXH 51, BSP 60; KWRU BR 22)

OPC

OPC argued that the additional accounting services should be disallowed. (BR 32) The additional work performed did not warrant an adjustment to accounting fees on a going-forward basis. (OPC BR 32) Additionally, KWRU indicated that the amount of accounting transactions would not increase with the amount of wastewater treated. (TR 360)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC's position (County BR 32; Harbor Shores BR 2)

ANALYSIS

Staff addressed KWRU's pro forma request for contractual services-engineering expense in Issue 23, as it was related to upgrading operations to meet AWT Standards. Therefore, no further adjustments are necessary.

In its MFRs, KWRU reflected an expense of \$25,762 for contractual services-accounting in the test year. (EXH 17, P 6) This amount included a test year adjustment to increase the expense by \$12,350 for additional accounting services. (EXH 17, P 6) In response to a staff data request, the Utility stated that the \$12,350 increase was based on an additional hour of bookkeeping for 49.5 weeks at an hourly rate of \$250 an hour. (EXH 9, P 2) Therefore, staff treated this as a pro forma request.

As discussed in Issue 23, the expense for contractual services-accounting was included in staff adjustments to reflect the total effect of AWT operations on O&M expenses. Staff believes that the pro forma adjustment made in Issue 23 adequately reflects the need for additional contractual accounting services on an ongoing basis. As such, the additional pro forma request is not necessary and contractual services-accounting expense should be decreased by \$12,350.

CONCLUSION

No adjustment is necessary for contractual services-engineering expense. Based on the above, contractual services-accounting expense should be decreased by \$12,350.

Issue 25: What adjustment, if any, should be made to KWRU's test year expenses for management fees charged by Green Fairways?

Recommendation: Contractual services-management expense should be reduced by \$60,000, as it is duplicative in nature. (Sewards, Norris)

Position of the Parties

KWRU: None.

OPC: Management fees should be decreased by \$60,000 for an affiliate transaction that is not necessary for the provision of regulated utility service. The majority of the management duties provided by Green Fairways is duplicative of the in-house officers and management KWRU has hired since its last rate case. The services provided by the affiliate primarily benefit the Utility's shareholder and the affiliate does not provide true, independent third party oversight over the Utility.

County: Agree with OPC that KWRU's proposed management fees should be decreased by \$60,000.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU argued that no adjustments should be made to the management fees charged by Green Fairways. (KWRU BR 22) The Utility contended that Mr. William Smith, an officer and shareholder of Green Fairways, gives his personal guarantee to secure loans for KWRU and without his guarantee, the Utility would not be able to obtain these loans. KWRU also contended that the \$60,000 management fee is well below the market rate of 3 percent for management fees. (EXH 49, BSP 26-30; KWRU BR 22) The Utility stated that without proper compensation for providing this guarantee, there is no incentive to utilize debt, thus, incentivizing the Utility to instead eliminate liability and ultimately raising revenue requirements and costs for customers. (KWRU BR 23) Green Fairways also oversees legal services and manages the Utility's President. (TR 608)

OPC

OPC testified that management fees should be decreased by \$60,000. (OPC BR 33) OPC believes that the Commission properly found that these services primarily benefit Mr. Smith as a shareholder in the PAA proceeding. (TR 362; OPC BR 33) OPC stated that the majority of management duties are duplicative of the in-house management duties. (TR 362; OPC BR 33) OPC also believes that since Mr. Smith owns both companies, they are related parties and the costs are unreasonable. (EXH 9, P 102; OPC BR 34)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC's position. (County BR 32; Harbor Shores BR 2)

ANALYSIS

The Utility included contractual services-management expense of \$60,000 in the test year for management services provided by Green Fairways, Inc. (EXH 17, P 6) Mr. William Smith owns the controlling interest in Green Fairways. (TR 712) Mr. William Smith also owns the controlling interest in WS Utilities, the parent company of KWRU. (TR 712)

Staff believes that related party transactions require close scrutiny. However, the fact that the transaction is between related parties does not mean the transaction is per se unreasonable. It is the utility's burden to prove that its costs are reasonable.²² The burden is even greater when the transaction is between related parties. The standard to use in evaluating affiliate transactions is whether those transactions exceed the going market rate or are otherwise inherently unfair.²³

The Utility confirmed that the day-to-day operations were switched to full-time employees as opposed to solely contractual services. (EXH 9, P 6) A breakdown of each position was also provided. (EXH 9, P 86) In the listing of Mr. Johnson's responsibilities provided, it cited responsibilities including budgeting, capital planning, financial planning and reporting, review of bid packages, and financing. (EXH 9, P 89) Mr. Johnson also provides operational and personnel management. (EXH 9, P 89) KWRU stated that the president, Mr. Johnson, spends an "average 45 hours a week" handling day-to-day operations. (EXH 9, P 100) Further, the Utility asserted that Mr. Johnson performs other matters for KWRU outside of regular business hours, such as PSC hearings, wastewater workshops, Board of County Commissioners Meetings, and required continuing education training (WWTP Operator License). (EXH 9, P 100)

KWRU also provided responsibilities of Green Fairways in response to a data request. (EXH 9, P 102) In addition to Mr. Smith providing personal guarantee for loans, the Utility stated that Green Fairways supervises Mr. Johnson, provides property and financial management, conducts financial reports, and provides accounting services related to financing and equity for KWRU. (EXH 9, P 102)

Staff believes that the majority of responsibilities attributed to Green Fairways are duplicative of in-house management duties. As such, contractual services-management expense should be reduced by \$60,000.

CONCLUSION

Based on the above, staff recommends that contractual services-management expense should be reduced by \$60,000 as it is duplicative in nature.

²² Florida Power Corp. v. Cresce, 413 So. 2d 1187, 1191 (Fla. 1982).

²³ GTE Florida Inc. v. Deason, 642 So. 2d 545 (Fla. 1994)

Issue 26: What is the appropriate amount of rate case expense?

Recommendation: The appropriate amount of rate case expense is \$430,828. This expense should be amortized over four years for an annual expense of \$107,707. Based on the Utility's updated filing, the annual amortization of rate case expense should be increased by \$9,045. (Frank, Norris)

Position of the Parties

KWRU: Actual rate case expense excluding the cost to respond to deficiencies through completion of the case. The amount expended through October 24, 2016 was \$396,994 with additional rate case expense of \$86,782 for a total rate case expense of \$483,776.

OPC: The final amount of rate case expense should be fully supported and reasonable. Duplicative and excessive costs should be removed for correcting MFR deficiencies. Duplicative, unsupported, and other costs not related to rate case expense should be removed. Only reasonable costs for customer notices, printing and shipping, and rate case travel expenses should be allowed.

County: Agrees with OPC.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In its brief, the Utility stated that actual rate case expense as of October 24, 2016, supported with documentation, was \$396,994. (EXH 52, BSP 14; KWRU BR 23) Based on the most recent actual and projected rate case expense submitted as evidence, the total rate case expense evidenced at trial would be \$461,126. (EXH 52, BSP 14; KWRU BR 23)

KWRU stated that although intervenors contend that certain legal expenses of Friedman & Friedman, P.A. and Smith Oropeza Hawks, P.L. are duplicative and not reasonable, the two firms have had a distinct separation of duties, and took measures to minimize legal expenses. (KWRU BR 24) The Utility detailed that Smith Oropeza Hawks served as primary litigation counsel, with Friedman & Friedman providing input and advisement; as such, the two firms have not overlapped on work performed, other than brief communications to divide work between the two firms. (KWRU BR 24) The Utility also stated Mr. Smith and Mr. Friedman attended Commission conference calls and participated in the conferences to ensure that no miscommunications existed and that work is not duplicated. (KWRU BR 25) Smith Oropeza Hawks has handled the discovery load using its lowest cost attorney to coordinate efforts of witnesses and draft discovery documents. (KWRU BR 25)

OPC

In its calculation of Phase I and II rates, OPC included \$38,005 to reflect the amortization of the Commission approved rate case expense in the PAA Order. (TR 369; OPC BR 34) OPC witness

Merchant testified that the final amount of rate case expense should be fully supported and reasonable, and should not be duplicative. (TR 367; OPC BR 34) OPC explained that adjustments should be made to remove duplicative and excessive legal fees, filing fees, and costs incurred to submit and address deficiencies in the MFRs, and to allow a reasonable estimate to complete the case. (TR 367; OPC BR 34)

OPC stated that it is not appropriate for KWRU to seek reimbursement from its ratepayers to have two attorneys reviewing the same work product and attending the same meetings. (TR 367, OPC BR 35) OPC asserted that it is the Utility's burden to demonstrate that the legal fees incurred are not duplicative and customers should not pay double (or any additional) rate case expense to have two attorneys review a data request, a discovery response, attend a conference call with staff, attend the prehearing conference, or pay for hours associated with "researching" different Commission functions such as the PAA process. (TR 367; OPC BR 35) OPC explained that at the November 7-8 hearing, OPC and Monroe County each had one attorney actively litigating their clients' case; whereas, KWRU had two. (OPC BR 35) OPC stated that when making adjustments to KWRU's "estimate to complete," the Commission should allow rate case expense for the participation of only one attorney, and disallow costs for the second as being unnecessary and unreasonable. (OPC BR 35)

Witness Merchant testified that accounting fees should be reduced to remove duplicate filing costs to correct MFR deficiencies, to remove duplicative, unsupported, and other accounting invoices not related to rate case expense, and to reflect a reasonable level of estimated hours to complete the case. (TR 367; OPC BR 35) OPC asserted that the Commission should scrutinize the accounting rate case expense invoices to determine whether the Utility's inadequate record keeping has increased the amount of accounting work performed to prepare the MFRs, address audit findings and respond to discovery, and whether any claimed rate case expense related to bringing the Utility's books into compliance included in rate case expense should be disallowed. (OPC BR 35) Witness Merchant also testified that adjustments are appropriate to reflect a reasonable cost for customer notices, printing and shipping, and rate case travel expenses. (TR 367; OPC BR 35)

County

The County stated the final amount of rate case expense should be fully supported by record evidence, not duplicative, and reasonable. (TR 364-369; County BR 33) The County contended it is unreasonable for two attorneys to duplicate work. (TR 367; County BR 33)

Harbor Shores

In its brief, Harbor Shores agreed with OPC's position. (Harbor Shores BR 2)

ANALYSIS

In its updated filing, the Utility requested \$394,648 for current rate case expense. (EXH 17, P 8) Staff made two requests for an update of the actual rate case expense incurred, with supporting documentation, as well as estimated amount to completion. On October 27, 2016, the Utility submitted its last revised update of actual and estimate rate case expense, through completion of

the hearing process, which totaled \$532,146. (EXH 18; EXH 52, BSP 112) A breakdown of the Utility's requested rate case expense is as follows:

Table 26-1
KWRU's Revised Rate Case Expense Request

	Actual	Additional Estimated	Revised Total
Friedman & Friedman, PA	\$55,678	\$37,401	\$93,079
Smith, Oropeza, & Hawks, PL	169,508	44,100	213,608
Milian, Swain, & Associates	134,521	21,350	155,871
Jeffery Allen,	10,275	3,000	13,275
M&R Consultants	12,833	26,500	39,333
Weiler Engineering Corp.	5,804	0	5,804
Filing Fee	0	0	0
Customer Notices, Printing, and Shipping	4,707	293	5,000
Travel	2,465	2,804	5,269
BB&T Escrow Fee	<u>1,200</u>	<u>0</u>	<u>1,200</u>
Total	<u>\$396,991</u>	<u>\$135,448</u>	<u>\$532,439</u>

Source: EXH 18; EXH 52, BSP 112

Pursuant to Section 367.081(7), F.S., the Commission shall determine the reasonableness of rate case expense and shall disallow all rate case expense determined to be unreasonable. Staff has examined the requested actual expenses, supporting documentation, and estimated expenses as listed above for the current rate case.

Smith, Oropeza, Hawks PL (SOH)

KWRU witness Johnson provided documentation detailing rate case expense for the law firm Smith, Oropeza, Hawks, P.L. (SOH) totaling \$169,508. (EXH 52, BSP 112) During the PAA process, the firm of Friedman and Friedman (F&F) was retained as the primary counsel for KWRU before the Commission. (EXH 9, P 7) However, the Utility also retained the services of SOH to assist with the rate case during this time. Staff reviewed SOH's invoices and believes SOH's hours associated with data requests related to the Last Stand Litigation are reasonable since the firm has represented the Utility for over five years and has in-depth familiarity with the on-going operations and legal issues pertaining to the Last Stand litigation. In addition, staff believes given the location of the Utility, it would have been more costly for F&F to coordinate with the County to address its concerns with the rate increase. As such, staff believes SOH's hours related to discussions and meetings with the County regarding the rate case are reasonable.

Once the PAA Order had been protested by OPC and the County, SOH assumed the role of primary counsel, with F&F assisting only on items related to unique PSC regulatory matters. (EXH 51, BSP 75) OPC witness Merchant testified it is the Utility's burden to show that legal

fees incurred are not duplicative, however, she also testified that the Utility deserves equal representation as OPC and the County. (TR 367, 405) Given the complexity of the hearing process compared to the PAA process, and KWRU's effort to retain adequate representation, staff believes it was reasonable for KWRU to retain two legal counsels.

Staff reviewed itemized invoices from both law firms in an effort to remove any duplicative legal fees. As such, staff made adjustments for specific work performed by SOH that appear duplicative to F&F. Upon reviewing invoices between the two firms, staff believes that \$14,473 in fees and \$570 in costs for SOH are duplicative of F&F and should be removed.

SOH's last estimate to complete the rate case was dated as of August 31, 2016. (EXH 49, BSP 4) The estimate included fees for 126 hours at \$350/hr. totaling \$44,100. (EXH 49, BSP 4) Subsequent to the last updated estimate, KWRU provided invoices detailing actual SOH legal fees incurred. (EXH 52, BSP 112) Therefore, staff reduced the estimate to complete by the amount of actual expense provided subsequent to the last updated estimate. This results in a reduction of \$35,000 (100 hrs. x \$350)

In summary, staff recommends reducing SOH rate case expense by \$50,043 (\$14,473+ \$570 + \$35,000).

Friedman & Friedman, P.A. (F&F)

KWRU witness Johnson provided documentation detailing rate case expense for the law firm Friedman & Friedman, P.A. (F&F). (EXH 52, BSP 112) As mentioned above, F&F was retained as the primary counsel for KWRU before the Commission during the PAA process. (EXH 9, P 7) However, during the hearing process, SOH assumed the role of primary counsel, with F&F assisting only on items related to unique PSC regulatory matters. (EXH 51, BSP 75) Detailed invoices were provided through October 3, 2016. The actual fees and costs totaled \$47,988 with an estimated \$52,848 to complete the rate case, totaling \$100,836 (\$47,988 + \$52,848). (EXH 52, BSP 112)

F&F's actual expenses included the \$4,500 filing fee. (EXH 52, BSP 112) KWRU is responsible for the payment of the filing fee; therefore, staff removed the \$4,500 from legal costs and included it under a filing fee line item.

According to invoices, the law firm of F&F identified and billed the Utility \$1,188 related to the correction of MFR deficiencies. (EXH 52, BSP 112) The Commission has previously disallowed rate case expense associated with correcting MFR deficiencies because of duplicate filing costs.²⁴ Consequently, staff recommends an adjustment to reduce F&F's actual legal fees by \$1,188.

F&F's last estimate to complete the rate case was submitted as of October 22, 2016. The estimate included fees for 82 hours at \$360/hr. and additional costs for photocopies and attending the

²⁴ Order Nos. PSC-05-0624-PAA-WS, issued June 7, 2005, in Docket No. 040450-WS, *In re: Application for rate increase in Martin County by Indiantown Company, Inc.*; and PSC-01-0326-FOF-SU, issued February 6, 2001, in Docket No. 991643-SU, *In re: Application for increase in wastewater rates in Seven Springs System in Pasco County by Aloha Utilities, Inc.*

Agenda Conference, totaling \$3,957. (EXH 49, BSP 4) Based on previously provided estimates for travel time to Tallahassee and Key West, staff reduced hours for travel resulting in a reduction of \$9,900 (\$360 x 27.5 hrs.). Further, staff decreased estimated travel costs \$2,134 for to remove hotel reservations paid for by KWRU and to reflect previously documented travel costs for similar trips. (EXH 52, BSP 112) Accordingly, staff recommends that F&F legal fees should be reduced by \$17,722 (\$4,500 + \$1,188 + \$9,900 + \$2,134).

Milian, Swain & Associates (MS&A)

The Utility provided documentation detailing rate case expense for accounting services performed by Milian, Swain, & Associates (MS&A). The actual fees and costs totaled \$134,521 with an estimated \$46,000 to complete the rate case, totaling \$180,521 (\$134,521 + \$46,000). (EXH 18, P 75; EXH 52, BSP 112)

In regard to MS&A's actual expenses, staff reviewed the supporting documentation and identified 49.25 hours related to correcting deficiencies. (EXH 18, P 75) As stated previously, the Commission has previously disallowed rate case expense associated with correcting MFR deficiencies because of duplicate filing costs. As such, staff recommends that \$8,813 be removed from MS&A's accounting consultant fees.

MS&A's last estimate to complete the rate case was submitted as of September 30, 2016. (EXH 52, BSP 112) The estimate included fees related to discovery and preparation for the hearing totaling \$20,850 and travel costs totaling \$500. (EXH 18, P 75) Staff believes MS&A's estimate to complete is reasonable and therefore recommends no adjustment.

In summary, staff recommends reducing MS&A rate case expense by \$8,813.

Jeffery Allen, PA

KWRU witness Johnson provided documentation detailing rate case expense for accounting services performed by Jeffery Allen, P.A. The actual fees and costs for Mr. Allen's services totaled \$10,275 with an additional \$3,000 estimated to complete the rate case. (EXH 52, BSP 112)

Descriptions of work performed on his invoices were vague in relation to the rate case, and staff requested further clarification. (EXH 9, P 7) According to the Utility's response to staff's third data request, Mr. Allen's work performed in the months of February, March, and July was associated with the restatement of prior year's annual reports. (EXH 9, P 7) As such, staff believes that 15 hours at \$250 an hour, for a total of \$3,750 should be removed as expense unrelated to the rate case.

Jeffery Allen's last estimate to complete the rate case was submitted as of July 1, 2016. (EXH 18, P 67) The estimate included \$3,000 to complete the rate case through the hearing. (EXH 18, P 67) Subsequent to the last updated estimate, KWRU provided invoices detailing actual accounting fees for Jeffery Allen incurred. Therefore, staff reduced the estimate to complete by the amount of actual expense provided subsequent to the last updated estimate. This results in a reduction of \$3,000 for estimate to complete.

In total, staff recommends reducing Jeffery Allen's' rate case expense by \$6,750 (\$3,750 + \$3,000).

M&R Consultants

KWRU witness Johnson provided documentation detailing rate case expense for M&R Consultants through October 21, 2016. (EXH 52, BSP 112) The invoices included consulting services for engineering-related schedules, responses to staff's data requests, review staff recommendations, responses to discovery, and prepare and assist testimony. The actual fees and costs totaled \$12,175. Staff reduced this expense by \$188 to remove fees associated with deficiencies. (EXH 52, BSP 112)

M&R's last estimate to complete the rate case was submitted as of September 1, 2016. (EXH 18, P 94) The estimate included fees for 166 hours at \$150/hr. (EXH 18, P 94) Based on previously provided estimates for hearing preparation and travel time to Key West, staff reduced hours for travel and preparation for the hearing by \$19,688. In total, staff recommends reducing M&R rate case expense by \$19,875 (\$188 + \$19,688).

Weiler Engineering Corp.

KWRU witness Johnson provided documentation detailing rate case expense for Weiler Engineering Corp. The actual fees and costs totaled \$5,096 for work associated with MFRs and the first data request. (EXH 52, BSP 112) Staff reviewed the invoices provided and believes this expense is reasonable. There was no estimate to complete provided in the record. Therefore, staff made no adjustments.

Filing Fee

The Utility included \$4,500 in its MFR Schedule B-10 for the filing fee. (EXH 16, P 34) As mentioned above, the filing fee was also included in F&F's legal costs. Staff removed the filing fee from F&F's legal costs and included the \$4,500 as part of filing fee expense.

Customer Notices, Printing, and Shipping

KWRU witness Johnson provided documentation detailing rate case expense for printing, shipping and customer notices, totaling \$4,707. (EXH 52, BSP 112) Staff reviewed invoices from FedEx, Office Max, U.S. Postmaster, and pay pal and believes these costs are reasonable. However, staff removed \$877 for a FedEx expense that was unsupported. Staff also increased this expense by \$20 to reflect incorrectly recorded invoice. (EXH 52, BSP 112) In total, actual rate case expense was decreased by \$857 (-\$877 + \$20)

Based on KWRU'S original filing, the remaining estimate to complete would be \$293 for final notices, based on the actual documentation provided. (EXH 16) However, the Utility provided the support documentation needed to verify the actual costs associated with two notices. (EXH 52, BSP 112) According to the invoices, costs for the initial notice and customer meeting notice totaled \$1,476. Based on the total cost for the first two notices, staff believes a reasonable estimate for the final notice is \$738 (\$1,476 / 2). Therefore the Utility's estimate for final notices should be increased by \$446. In total, staff recommends, reducing customer notice, printing, and shipping expense by \$411 (-\$857 + \$446).

Travel

KWRU provided documentation detailing rate case expense for travel totaling \$2,465. (EXH 52, BSP 112) The expenses supported were related to KWRU witness Johnson’s attendance at the PAA Agenda Conference. In addition, KWRU provided estimated hotel costs for three consultants to attend the hearing totaling \$2,804. (EXH 52, BSP 112) The documentation provided for the hotel reservations reflected an additional night for each consultant, two day prior to the technical hearing. Staff believes that this additional expense falls outside the timeframe of the technical hearing and should be removed from rate case expense. As such, travel expense should be decreased by \$1,297.

BB&T Escrow Fee

KWRU provided documentation for a BB&T escrow fee, in the amount of \$1,200, that was incurred when the Utility chose to implement the rates set forth in the PAA Order, subject to refund. (EXH 52, BSP 112) Pursuant to Rule 25-30.360, F.A.C., in no instance should maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and should be borne by the Utility. As such, staff recommends removing the \$1,200 escrow fee.

CONCLUSION

Based upon the adjustments discussed above, staff recommends that KWRU’s revised rate case expense of \$532,146 be decreased by \$101,318 to reflect staff’s adjustments, for a total of \$430,828. A breakdown of staff’s recommended rate case expense is as follows:

**Table 26-2
 Staff Recommended Rate Case Expense**

Description	Utility Revised Act. & Est.	Staff Adjustment	Recom. Total
Legal Fees	\$306,687	(\$67,765)	\$238,922
Accounting Consultant Fees	169,146	(15,563)	153,583
Engineering Consultant Fees	45,137	(19,875)	25,262
Filing Fee	0	4,500	4,500
Customer Notices, Printing, and Shipping	5,000	(411)	4,589
Travel	5,269	(1,297)	3,972
BB&T Escrow Fee	1,200	(1,200)	0
Total	\$532,439	(\$101,610)	\$430,828

Source: (EXH 9, P 7; EXH 51, BSP 75; EXH 52, BSP 112)

The recommended total rate case expense of \$430,828 should be amortized over four years, pursuant to Section 367.0816, F.S.²⁵ This represents an annual expense of \$107,707. As stated

²⁵ Section 367.0816, F.S., was repealed pursuant to Ch. 2016-226, Laws of Florida, effective July 1, 2016. However, the statute was in effect when KWRU’s application was filed, and therefore shall remain applicable in this case.

previously, in its updated filing, the Utility requested \$394,648 for current rate case expense, with an annual amortization amount of \$98,662. (EXH 17, P 8) Based on the Utility's updated filing, the annual amortization of rate case expense should be increased by \$9,045 (\$107,707 - \$98,662).

Issue 27: What is the appropriate amount and accounting treatment of accounting fees incurred by the utility to restate its 2007 to 2012 Annual Reports?

Recommendation: The Utility's requested 5-year amortization of \$63,055 for restatement of the 2007 to 2012 Annual Reports should be disallowed. Staff's adjustments to reflect annualized 2016 levels in Issue 23 effectively negated all test year adjustments; therefore, no further adjustment is necessary. (Sewards)

Position of the Parties

KWRU: \$63,055.00 deferred and amortized over 5 years, per Audit Finding 6.

OPC: Amortization of \$11,678 for accounting costs to restate KWRU's books after the last rate case decision is unreasonable and should be disallowed. No restatement occurred, nor did the Utility make Commission-ordered adjustments from the last rate case. The ratepayers should not be required to pay *in future rates* for historical costs which should have been incurred annually to repair KWRU's records since the last rate case.

County: Agree with OPC that KWRU's proposed amortization of \$11,678 for accounting costs should be disallowed.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU stated that the expenditures for restatement of the 2007 to 2012 Annual Reports were necessary and have long-term benefits for the Utility and its rate payers. (TR 772; KWRU BR 25) The Utility asserted that amortization of the costs over a 5-year period are appropriate considering the amount of work that was put into preparing the books for staff auditors and to have proper recording of all records. (TR 772; KWRU BR 25)

OPC

OPC contended that KWRU failed to explain how this restatement provided any future benefit to ratepayers. (TR 341; OPC BR 36) OPC also stated the Utility failed to make Commission-ordered adjustments from the last rate case. (OPC BR 36) OPC asserted that ratepayers should not have to pay for the Utility failure to correctly maintain its books. (TR 341; OPC BR 36)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC's position. (County BR 33; Harbor Shores BR 2)

ANALYSIS

In its MFRs, the Utility proposed a test year adjustment of \$11,678 to other deferred expenses to recognize an amortization of \$58,390 over a 5-year period for restatement of the annual reports

from 2007 to 2012. (EXH 17, P 6) KWRU stated that “Milian, Swain & Associates, Inc., (MSA) was engaged to review the Utility’s Annual Reports filed subsequent to the prior case. . . After review, MSA recommended adjustments to the Utility’s General Ledger, and prepared revised Annual Reports to reflect the adjustments.” (EXH 9, P 2) The Utility expanded on this explanation further by specifically citing plant improvements subsequent to the last rate case that were not properly capitalized. (EXH 51, BSP 58) KWRU witness Swain testified that correcting the books is an appropriate cost of the Utility. (TR 772)

Staff auditors reclassified \$4,668 from O&M Expense to the unamortized balance of deferred accounting fees, as accounting fees for the cost incurred to restate the 2007-2012 Annual Reports bringing the total amount deferred to \$63,055. (EXH 48, P 24)

Staff believes that it was appropriate for the Utility to correct its books. However, staff also believes that ratepayers should not have to pay for the correction of Utility’s books that were not properly kept from 2007 to 2012. Thus, staff recommends that the Utility’s requested 5-year amortization of \$63,055 for restatement of the 2007 to 2012 Annual Reports should be disallowed.

CONCLUSION

Based on the above, the Utility’s requested 5-year amortization of \$63,055 for restatement of the 2007 to 2012 Annual Reports should be disallowed. Staff’s adjustments to reflect annualized 2016 levels in Issue 23 effectively negated all test year adjustments; therefore no further adjustment is necessary.

Issue 28: What is the appropriate amount and accounting treatment of fees associated with the legal challenge of KWRU's FDEP Permit Numbers FLA014951-012-DWIP, 18490-020, and 18490-021 for rate-setting purposes?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate amount of fees associated with the legal challenge of KWRU's DEP permits is \$496,973, and it should be amortized over five years. The five-year amortization results in test year expense of \$99,395, which increases the requested amortization amount by \$3,908.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: \$487,564.07 deferred and amortized over 5 years, per PAA.

A. For Phase I, if applicable

OPC: The litigation fees of \$477,436 were incurred to obtain a permit for its plant expansion and new injection wells. Per the USOA, legal fees associated with construction should be capitalized with the plant construction costs and recovered over the life of the plant. These costs are not non-recurring expenses for renewing an operating permit. The adjusted balance should be recorded in CWIP, removed from working capital and O&M Expenses.

County: Agrees with OPC.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Phase II plant should be increased by \$477,436 to capitalize the legal fees incurred to litigate the construction permit for the treatment plant expansion and the two new injection wells. The Utility's requested deferred debit balance of \$467,625 for the litigation fees should be removed from Working Capital and test year O&M Expenses should be reduced by \$103,917 in amortization.

County: Agrees with OPC.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU argued that the Last Stand permit challenge was not only directed to the expansion of the plant, but to the operation of the plant. (KWRU BR 26) KWRU further asserted that Intent to Issue Permit issued by Department of Environmental Protection (DEP), and challenged by Last Stand, was both an expansion and an operation permit, providing not only for the construction of new infrastructure but for operation of the existing plant. (KWRU BR 26) KWRU elaborated that the Intent to Issue Permit provided that “[t]he existing WWTP and the proposed 0.350 MGD treatment train has and will be modified to meet the advanced wastewater treatment (AWT) standards of Section 403.085(10), F.S.” (KWRU BR 26) KWRU further cited Rule 62-528.630, F.A.C., which provides that “[a]ll class V Group 3 wells designed to inject domestic wastewater in Monroe County shall be required as part of the operation application to provide reasonable assurance that operation of the well will not cause or contribute to a violation of surface water standards...” (KWRU BR 26) KWRU furthered its argument stating that the challenge was to the operation of the injection wells as a whole, not just to new installations. (KWRU BR 26)

KWRU argued that it is appropriate to amortize legal expenditures related to the referenced legal challenge because the challenge was not only to the expansion of the wastewater treatment plant, but significantly focused on the current operations of the plant. (TR 227; TR 576; KWRU BR 26) KWRU contended that these expenditures are properly amortized over a 5-year period. (KWRU BR 26-27)

OPC

OPC argued that the balance of the total litigation fees should be \$477,436. (OPC BR 37) OPC additionally asserted that these costs were incurred directly by KWRU to obtain permission from DEP to build KWRU's treatment plant expansion. (OPC BR 37) OPC explained that while the title of the permit was labeled as an operating and construction permit, the permit for the existing plant had two more years before it expired. (OPC BR 37)

OPC elaborated that this permit, along with the two permits to build two additional shallow injection wells, were necessary only for the fact that KWRU wanted and needed to expand its capacity. (OPC BR 37) Therefore, OPC concluded that these legal fees to defend the plant expansion permit should be included with the capital costs associated with the plant expansion and should be recovered over the life of the plant, as required by the NARUC Uniform System of Accounts (USOA). (OPC BR 37)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC. (County BR 33; Harbor Shores BR 2)

ANALYSIS

Last Stand Permit Challenge

On April 15, 2014, KWRU filed an application with DEP for authorization to substantially modify the operation of its wastewater treatment plant by increasing wastewater flows from 0.499 million gallons per day (MGP) to 0.849 MGP. (TR 564) The existing permit was issued on February 20, 2012, with an expiration date of February 19, 2017. (TR 564) DEP issued the “Notice of Intent” to issue the modified permit on June 23, 2014. (TR 564) DEP’s action was appealed by third-party respondents on August 5, 2014 and litigation ensued. (TR 564) The case went before an Administrative Law Judge in the summer of 2015, and the Final Order, *Last Stand v. KW Resort Utilities, Corp. et al.*, State of Florida Div. of Admin. Hearings, DOAH Case No. 14-5302, was issued February 24, 2015. (EXH 51, BSP 81; EXH 52, BSP 116) No further legal expenditures were associated with an appeal. (EXH 56, BSP 1563-1564)

KWRU asserted that if the Last Stand was successful in its challenge to the issuance of the proposed permit, the Utility would have incurred significant additional expenditures. (EXH 49, BSP 5) KWRU witness Castle estimated that the total cost for design, permitting, and construction of the deep well would be in excess of \$10,000,000, based on current costs for deep well installation in the Florida Keys and the acquisition cost of land adjacent to KWRU’s property. (EXH 49, BSP 5) Staff believes that the legal fees incurred by the Utility were justified given the potential rate impact of constructing a deep injection well. Staff does not believe that there was negligence on behalf of the Utility that precipitated the ensuing administrative hearing. Therefore, KWRU should be allowed recovery of all fees associated with defending the permit challenge.

Accounting Treatment

The Utility requested to defer and amortize \$477,433 of litigation fees over the 5-year life of the permit and included the associated amortization of \$95,487 ($\$477,433/5$) in miscellaneous expense. Staff witness Piedra testified to the verification of support documentation for this amount. (TR 564) The Utility has provided appropriate documentation for an additional \$19,540, along with a description of all services provided. (EXH 55, P 168-169; EXH 56, P 1564) As such, staff recommends an increase to the total litigation fees in the amount of \$19,540.

OPC witness Merchant argued that because the Last Stand litigation directly related to the litigation regarding the construction permit, and not existing operations, the fees should be capitalized to the plant expansion project and recovered over the life of the plant. (TR 338) In support of her position, witness Merchant cited the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts’ (USOA) accounting instructions for the components of construction costs. (TR 338) Witness Merchant specifically cited:

Accounting Instruction 19. Utility Plant – Components of Construction Cost

The cost of construction properly includible in the utility plant accounts shall include, where applicable, the direct and overhead costs as listed and defined hereunder:

(15) “Legal Expenditures” includes the general legal expenditures incurred in connection with construction and the court and legal costs directly relate

thereto, other than legal expenses included in protection, item 7, and in injuries and damages, item 8. (TR 338-339)

During OPC's cross-examination, KWRU witness Swain agreed that in addition to standard costs such as labor and materials, the component costs outlined in the USOA included, but were not limited to, privileges, permits, and legal expenditures. (TR 224-225) However, she qualified her response with the caveat that she agreed to those items, only to the extent they relate directly to the construction and serve no other purpose. (TR 225, 231) Witness Swain testified that given the complexity of the litigation, the decision to capitalize the costs should not be solely based on the fact that the Utility obtained a construction permit in the process, as such treatment would ignore that the litigation was also against the operation of the Utility. (TR 231)

Staff believes the complexity of the litigation, as evidenced by the Recommended Order, indicates that the costs expended to defend the permit modification challenge were not simply "general legal expenditures incurred with construction", as referenced in NARUC Accounting Instructions 19. (EXH 69, BSP 1766) The Utility's description of the various fees, which range from legal to engineering, showcase the detailed work involved to defend the construction of the shallow injection wells. (EXH 55, BSP 169) As such, staff recommends the amortization of the litigation fees pursuant to Rule 25-30.433(8), F.A.C., which states that non-recurring expenses shall be amortized over a 5-year period. Based on staff's adjustment to the total litigation fees, the associated amortization should be \$99,395.

CONCLUSION

The appropriate amount of fees associated with the legal challenge of KWRU's DEP permits is \$496,973, and this amount should be amortized over five years. The 5-year amortization results in test year expense of \$99,395, which increases the requested amortization amount by \$3,908.

Issue 29: What is the appropriate amount of depreciation expense to be used in setting rates?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate amount of depreciation expense should be \$222,726. Accordingly, depreciation expense should be decreased by \$156,229.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: \$473,323.

A. For Phase I, if applicable

OPC: Net depreciation expense (DE) should be \$104,511 for Phase I. Adjustments are appropriate to increase CIAC amortization by \$14,003 (Stipulation 4) and decrease depreciation expense by \$5,489 (Stipulation 5). Pro forma DE for the treatment plant expansion should be reduced by \$196,281 and the adjustment to annualize DE should be removed, a reduction of \$4,384.

County: Agrees with OPC.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Phase II net DE is \$224,316 (decrease of \$72,346). Adjustments without stipulations: increase 2014 DE \$13,718 to year-end balance; increase DE \$67,026 for expansion projected costs with capitalized litigation fees; increase DE \$6,956 for vacuum tank and retirement; non-used and useful DE reduction \$130,954; increase CIAC amortization \$4,746 for 2014 year-end balance, \$17,079 for the 2015-2016 actual CIAC additions, and \$15,421 for projected 2016 CIAC additions to be collected when WWTP expansion begins operations.

County: Agrees with OPC.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In its brief, KWRU stated that the proper level of depreciation expense includes adjustments to Test Year depreciation that include additional depreciation expense on proforma plant net of proforma retirements, reductions for audit adjustments (Audit Finding 4 and Audit Finding 5), and additional costs to annualize depreciation expense. (KWRU BR 27-28; EXH 79, BSP 79)

Additionally, the Utility testified that this treatment has been accepted by the Commission in other cases that KWRU witness Swain specifically cited. (TR 769; KWRU BR 28)

OPC

OPC stated in its brief that net depreciation expense should be \$104,511 for Phase I rates. OPC explained that adjustments are appropriate to increase amortization of CIAC by \$14,003 (Audit Finding 4) and to decrease depreciation expense by \$5,489 (Audit Finding 5). (OPC BR 39) OPC specifically indicated that the pro forma depreciation expense for the wastewater treatment plant expansion should be reduced by \$196,281 and the Utility's adjustment to reflect the year-end annualization of depreciation expense should be removed, a reduction of \$4,384. (OPC BR 39)

OPC asserted that OPC witness Merchant testified that Phase II net depreciation expense is \$224,316, a net decrease of \$72,346. OPC detailed that in addition to Stipulations 4 and 5, several adjustments are appropriate to be consistent with Ms. Merchant's adjustments to plant, accumulated depreciation and CIAC. (OPC BR 39) First, 2014 depreciation expense should be increased by \$13,718 to reflect the year-end balance. (OPC BR 39) Second, depreciation expense should be increased by \$67,026 to reflect the additional WWTP expansion projected costs including the capitalized permit litigation fees. Third, the vacuum tank addition and related retirement should increase depreciation expense by \$26,385 and decrease depreciation expense by \$19,789, respectively. (OPC BR 39) Depreciation expense should be reduced by \$130,954 based on OPC witness Woodcock's 25 percent non-used and useful percentage. OPC asserted that witness Merchant testified that consistent with OPC's adjustments to CIAC, test year amortization of CIAC should be increased by \$4,746 to reflect a year-end balance, by \$17,079 for the 2015 and 2016 actual CIAC additions, and by \$15,421 for the additional 2016 CIAC projected to be collected during the first year of operation of the WWTP expansion. (TR 372-373; OPC BR 39-40)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC. (County BR 34; Harbor Shores BR 2)

ANALYSIS

In KWRU's updated MFRs, the Utility reflected test year depreciation expense of \$1,861,540 along with adjustments to increase accumulated depreciation by \$4,384 for annualizing depreciation expense in the test year and by \$270,061 as a corresponding adjustment to its requested pro forma plant expansion. (EXH 17) As discussed in Issue 5, KWRU also included Stipulation 4 to decrease CIAC amortization expense by \$14,003 and Stipulation 5 to decrease depreciation expense by \$5,489. (EXH 17, P 3-4)

In regard to the Utility's test year adjustment to annualize depreciation expense, OPC witness Merchant testified that this type of adjustment recognizes certain increases without recognizing corresponding decreases and that blending year-end items with average items is an "obvious" violation of the matching principal. (TR 320) She further testified that including this adjustment violates the statutory requirement that CIAC, accumulated amortization of CIAC, and test year amortization of CIAC are properly included in the revenue requirement pursuant to 367.081(2)(a)1., F.S. (TR 320) Based on staff's analysis of the test year, KWRU included a full

year of CIAC amortization expense associated with 2014 collections of CIAC. As such, there is no violation of 367.081(2)(a)1., F.S. Witness Merchant's position, specifically as it pertains to accumulated depreciation, is further addressed in Issue 7.

To reflect rate base adjustments previously recommended, the appropriate corresponding adjustments to depreciation expense for the pro forma plant discussed in Issue 6 is a net decrease of \$26,414 to reflect the pro forma plant expansion and the vacuum tank, and an increase of \$8,008 to reflect the 2015 and 2016 routine plant additions. Further, a corresponding decrease of \$20,685 should be made to reflect amortization expense for 2015 and 2016 CIAC collections included in rate base. The total adjustment is a net decrease to depreciation expense of \$156,229.

CONCLUSION

Based on staff's previous recommended adjustments, the appropriate amount of net depreciation expense is \$222,726. Accordingly, net depreciation expense should be decreased by \$156,229.

Issue 30: What is the appropriate amount of taxes other than income to be used in setting rates?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The appropriate amount of taxes other than income (TOTI) should be \$199,457. Accordingly, TOTI should be decreased by \$50,884.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: \$288,613

A. For Phase I, if applicable

OPC: Phase I adjusted 2014 taxes other than income should be \$153,029, a decrease of \$92,878. Payroll taxes should be increased \$5,682 to reflect the annualization of payroll taxes consistent with the Phase I salaries for AWT and property taxes should be reduced \$35,696 related to pro forma plant.

County: Agree with OPC that taxes other than income (“TOTI”) should be \$153,029.

Harbor Shores: Agrees with OPC

B. For Phase II, if applicable

OPC: Phase II 2016 pro forma test year taxes other than income should be \$189,605, a decrease of \$56,302. Payroll taxes should be reduced \$1,875, to reflect the PAA Order salaries level and property taxes increased by \$13,355 to reflect the adjusted pro forma plant. Property taxes should be reduced \$16,177 related to non-used and useful plant.

County: Agree with OPC that Phase II 2016 pro forma test year TOTI should be \$189,605.

Harbor Shores: Agrees with OPC

Staff Analysis:

PARTIES’ ARGUMENTS

KWRU

KWRU stated that TOTI should be \$288,613. (KWRU BR 28) This amount represents the Utility’s calculation of payroll taxes, property taxes on test year and pro forma plant, as well as regulatory assessment fees (RAFs) on final revenues. (KWRU BR 28)

OPC

OPC witness Merchant testified that OPC's Phase I adjustments to TOTI included decreasing RAFs by \$62,863 based on OPC's calculated test year revenue adjustment, decreasing payroll taxes by \$5,682 to reflect OPC's adjustment to Phase I salaries for AWT, and lastly, decreasing property taxes by \$35,696 to reflect OPC's removal of KWRU's pro forma plant in Phase I. (TR 374) In its brief, OPC stated that TOTI should be \$153,029, resulting in a net decrease of \$92,878 to the Utility's requested balance. (TR 374; OPC BR 40)

For Phase II, OPC stated in its brief that TOTI should be \$189,605, reflecting a decrease of \$56,302. (TR 374-375; OPC BR 40) OPC witness Merchant testified that OPC's Phase II adjustments to TOTI included decreasing payroll taxes by \$1,875 to reflect OPC's adjustment to Phase II salaries for AWT, increasing property taxes by \$13,355 to reflect the Phase II pro forma plant, and decreasing property taxes related to non-used and useful plant by \$16,177. (TR 374-375)

County and Harbor Shores

In their briefs, the County and Harbor Shores agreed with OPC. (County BR 34; Harbor Shores BR 2)

ANALYSIS

This is a fallout issue. Based on staff's adjustments to test year revenues and to remove the Utility's requested increase, RAFs should be reduced by \$81,475. To reflect staff's recommended adjustments to pro forma plant, property taxes should be increased by \$754. To reflect staff's recommended adjustment to pro forma salaries, payroll taxes should be decreased by \$210. To reflect staff's recommended non-used and useful adjustment, property taxes should be decreased by \$10,526. Lastly, to reflect staff's recommended revenue increase, RAFs should be increased by \$40,573. In total, TOTI should be decreased by \$50,844 ($-\$81,475 + \$754 - \$210 - \$10,526 + \$40,573$) for an adjusted total of \$199,457.

CONCLUSION

Based on staff's recommended adjustments, TOTI should be decreased by \$50,884. The appropriate amount of taxes other than income (TOTI) is \$199,457.

Issue 31: What is the appropriate revenue requirement? (Fall-out)

- A. For Phase I, if applicable
- B. For Phase II, if applicable

Recommendation: The revenue requirement should be \$2,436,418.

- A. As addressed in Issue 2, Phase I is not applicable.
- B. As addressed in Issue 2, Phase II is not applicable. (Norris)

Position of the Parties

KWRU: \$3,440,501

A. For Phase I, if applicable

OPC: Based on OPC's adjustments to the rate base, cost of capital and operating expenses, the Phase I revenue requirement should be \$1,821,639. This represents an increase of \$286,840, or 18.69%, to adjusted 2014 test year revenues.

County: The appropriate Phase I revenue requirement is \$1,821,639.

Harbor Shores: Agrees with OPC.

B. For Phase II, if applicable

OPC: Based on OPC's adjustments to the rate base, cost of capital and operating expenses, the Phase II revenue requirement should be \$2,269,893, representing an increase of \$568,263, or 33.40%, to adjusted 2016 pro forma test year revenues. Consistent with long-standing Commission practice, KWRU's revenue increase should be limited to the amount requested in its initial MFRs.

County: The Phase II revenue requirement recommended by OPC of \$2,269,893 is reasonable.

Harbor Shores: Agrees with OPC.

ANALYSIS

This is a fall-out issue. In its filing, KWRU requested a revenue requirement to generate annual revenue of \$3,345,357, representing a revenue increase of \$1,866,050, or approximately 126 percent. Consistent with staff's recommendations concerning rate base, cost of capital, and operating income issues, the appropriate revenue requirement is \$2,436,418. Staff's recommended revenue requirement is \$901,618 greater than the stipulated test year revenues of \$1,534,799, or an increase of 58.75 percent. Staff's recommended revenue requirement will allow the Utility the opportunity to recover its expenses and earn a 6.12 percent return on its

investment in rate base. The schedule reflecting net operating income is attached as Schedule No. 3-A, and the adjustments are shown on Schedule No. 3-B.

Issue 32: What are the appropriate rate structures and rates for KWRU's wastewater system?

Recommendation: The recommended rate structures and monthly wastewater rates are shown on Schedule No. 4. (Johnson)

Position of the Parties

KWRU: Rate structure: per PAA Order. Rates: fall-out using staff formula (used in PAA Order).

OPC: The PAA BFC/gallorage allocation of 40/60 and the corrected billing determinants for 2014 Phase I are reasonable. Phase II billing determinants should be escalated to project expected revenues from new customers added since 2014 and expected after the plant expansion is in-service. An investigation is appropriate to determine whether KWRU has correctly implemented changes made to bill customers by appropriate class and meter size and refunds for customers who were improperly billed.

County: The appropriate rate structures are a Base Facilities Charge and Gallorage Charges developed using the 40/60 split adopted in the PAA Order, and the appropriate rates are those calculated using billing determinants for 2017, because that is the time period in which the Phase II Rates will be in effect.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU asserted that the December 31, 2014 billing determinants as set forth in the PAA Order should be used to determine rates. (KWRU BR 19) KWRU witness Swain acknowledged an accounting principle of matching but testified that she had not seen the matching principle employed in a PSC rate case. (TR 212) However, she further testified that if the billing determinants increased it would result in lower rates. (TR 220-221) KWRU agreed with the rate structure set forth in the PAA Order and added that final rates should be a fall out calculation of the billing determinants used in the PAA Order. (KWRU BR 29)

OPC

OPC testified that the 40/60 base facility charge to gallorage charge allocation is reasonable in designing Phase I rates. (OPC BR 42) OPC also argued that the bills and gallons used to calculate Phase II rates should be increased to reflect the projected level of customers that will be online for the first year of operation of the wastewater treatment expansion. OPC claimed that not adjusting for customer growth while making pro forma adjustments to revenues would be violating the matching principle. OPC submitted that the appropriate 2016 billing determinants

for Phase II rates can be determined by applying a five percent increase to the 2014 test year billing determinants and the subsequent 2015 billing determinants. (TR 380) OPC added that KWRU's Annual Report states that its 2015 revenues increased over its 2014 revenues by 12 percent and that it achieved a 16.19 percent rate of return. OPC further asserted that the actual increase in KWRU's 2015 revenues should be used to estimate the number of bills and gallons by customer class. OPC emphasized that the five percent projected growth rate per year is supported by OPC witness Woodcock's used and useful projection. (OPC BR 27; EXH 20)

OPC contended that a full investigation should be made to determine if KWRU has correctly billed its customers by customer class and meter size and whether any refunds are warranted based on improper bills. OPC concluded in support of OPC witness Merchant's calculated rates reflected on schedules 4-A in exhibits PWM-2 and PWM-3. (EXH 24; EXH 25; OPC BR 42)

County

The County submitted that the bills and gallons used in establishing Phase II rates should be those that are reasonably projected to be billed by KWRU in the 12 month period after the new wastewater treatment plant comes online. The County asserted that it is necessary to match the Utility's costs with its sales to ensure that the rates paid by KWRU's customers will properly recover the costs incurred to serve them in that time period. (TR 531) The County believes following the matching principle in this way is necessary to ensure that the rates charged by KWRU are fair, just, and reasonable.(County BR 27)

The County recognized witness Merchant's recommendation for 2016 billing determinants but adds that witness Merchant's billing determinants should be further escalated to include growth in 2017. (County BR 27) The County subsequently used OPC's projected growth rate of five percent with OPC's projected 2016 bills and gallons to establish 2017 billing determinants. (County BR 28) The County concluded in agreement with the 40/60 rate structure set forth in the PAA order and adds that specific rates should be a fall-out of the County's projected billing determinants. (County BR 35)

Harbor Shores

Harbor Shores agrees with OPC's position on this issue. (Harbor Shores BR 2)

ANALYSIS

KWRU believes 2014 billing determinants are representative of the test year and should be used to calculate rates. (TR 213) County witness Deason testified on the matching principle, which he defined as a requirement "that the utility's rates be set using the utility's costs, investments, revenues, and sales units from the same time period, and that they be representative of the time period in which the new rates will be in effect." (TR 531) However, witness Deason agreed that the Commission has traditionally relied on historical test years for ratemaking purposes in the water and wastewater utility industry. (TR 546) OPC and the County both emphasized the importance of the matching principle in their briefs, while witness Merchant acknowledged "there's an accounting principle of matching, but not necessarily in utility rate-making." (OPC BR 27; County BR 27; TR 212)

Staff believes that the principle of matching costs and expenses with sales is at the center of the argument for establishing correct billing determinants. Staff recognizes the need to match identifiable customer growth and sales with known and measurable growth in the utility's investment and expenses. Considering the impacts that any growth or decline in sales would have on revenues, staff believes that the matching principle is an important concept to observe in the rate-making process.

In response to interrogatories, KWRU projected approximately 220 ERCs of growth through 2018. (EXH 49, BSP 33) Although unquantified, witness Merchant also testified to implied customer and sales growth for KWRU based on 2014 and 2015 annual reports. (TR 353; EXH 28, P 22)

Staff analyzed a schedule provided by the Utility showing revenues by month, customer class, and meter size from January 2016 through September 2016; however, staff was unable to calculate actual billing determinants due to KWRU's change in rate structure during 2016 when the PAA rates were implemented. (EXH 51, BSP 96)

OPC proposed an across the board increase to the PAA 2014 billing determinants for Phase II rates using OPC witness Woodcock's used and useful projection. (OPC BR 27; TR 380; EXH 20) Therefore, staff recommends that the 2014 billing determinants should be increased to reflect known and measurable growth, consistent with OPC's methodology. However, staff recommends using staff's used and useful growth projection for 2015 and 2016 as discussed in Issue 11. The resulting billing determinants include 29,159 factored ERCs and 232,666,423 gallons.

All parties agreed with a 40 percent revenue allocation to the BFC. (KWRU BR 29; OPC BR 42; County BR 35) Subsequently, the rates are a result of the chosen billing determinants and revenue requirement. Staff annualized the Utility's 2016 miscellaneous revenues from Monroe County Detention Center income, miscellaneous income, and rental income. (EXH 52, Attachment 22) To calculate revenues from miscellaneous service charges, staff calculated the number of annualized occurrences for each charge in 2016 and multiplied it by the recommended charge as described in Issues 34 and 36. (EXH 51, BSP 94) Staff calculated the appropriate reuse revenue by annualizing the 2016 reclaimed gallons sold and multiplying it by the proposed reuse rate in Issue 33. (EXH 51, BSP 93) Below are the annualized miscellaneous revenues to be subtracted from the revenue requirement. Staff notes that any changes to the recommended charges in Issues 33, 34, and 36 will affect the total miscellaneous revenues included in the revenue requirement.

Table 32-1
Miscellaneous Revenues

Description	Staff Recommended
MCDC Income	\$18,679
Miscellaneous Income	\$15,491
Rents	\$1,200
Miscellaneous Service Charges	\$25,296

Reuse Revenue	\$60,583
Total Miscellaneous Revenues	\$121,249

Source: Staff Analysis (EXH 25, P 7)

Further, staff recommends that all residential customers should be billed a BFC regardless of meter size and a gallonage charge based on water demand with a 10,000 gallon cap. All general service customers should be billed based on meter size with a gallonage charge based on water demand. The general service gallonage charge should be 20 percent higher than the residential gallonage charge to reflect that not all residential water demand is returned to the wastewater system. In addition, the tariff for private lift station owners should be revised to reflect a BFC based on meter size that is 20 percent less than the applicable general service BFC consistent with the discount previously approved for KWRU customers with customer-owned and maintained lift stations.²⁶ If a customer has multiple water meters, the Utility should charge the approved BFC for each meter. In addition, as discussed in Issue 18, Harbor Shores should be billed a BFC based on 69 ERCs and a gallonage charge with a 10,000 gallon cap per ERC.

CONCLUSION

The recommended rate structures and monthly wastewater rates are shown on Schedule No. 4.

²⁶ See Order No. 14620, in Docket No. 830388-S, issued November 19, 1984, *In re: Petition of STOCK ISLAND UTILITY COMPANY, INC. for increased sewer rates in Monroe County.*

Issue 33: What is the appropriate rate for KWRU's reuse service?

Recommendation: The appropriate rate for KWRU's reuse service is \$1.34 per 1,000 gallons. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Friedrich)

Position of the Parties

KWRU: \$.93 per PAA Order.

OPC: The \$1.34 reuse rate is market-based, provides incentives for reuse, and is more reasonable than the \$0.93 PAA Order rate. The potable-water rate in KWRU's territory ranges from \$5.84-\$11.70/kgal. The only other provider in Monroe County lowest-level reuse rate is \$2.92/kgal. Compared to the other provider's reuse rate and the potable water rate, \$1.34 is reasonable. No additional charge for testing should be allowed.

County: The appropriate rate for KWRU's reuse service is at least \$1.34 per thousand gallons, and the Commission should consider setting the rate significantly higher in order to provide better price signals for this market-based service and to thereby reduce the rate impacts on KWRU's regular service customers.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU believed the appropriate reuse rate is \$0.93 per 1,000 gallons. (TR 675; TR 778-79) The Utility originally proposed a rate of \$1.35 per 1,000 gallons in its MFRs. (EXH 16, BSP 44) In response to an interrogatory, the Utility indicated that the proposed rate was a proportionate increase based on the overall requested revenue increase. (EXH 49; TR 778-79) However, in rebuttal testimony, Utility witnesses Johnson and Swain testified that KWRU supports a reuse rate of \$0.93 per 1,000 gallons. (TR 675; TR 778-79)

KWRU Witness Swain testified that the reuse rate should not be increased disproportionately more than the overall revenue increase; reuse rates are generally market-based. (TR 778-79) FKAA's charges for reuse are based on 50 percent of each potable water rate block, the lowest of which is \$5.84 per 1,000 gallons. (TR 381-382; EXH 30) KWRU argued that a reuse rate of \$0.93 will strike a balance to create demand for reuse while still maintaining an additional revenue stream. (KWRU BR 29)

OPC

OPC's witness Merchant believes the appropriate reuse rate is \$1.34 per 1,000 gallons based on the \$1.35 per 1,000 gallons originally proposed by the Utility. (TR 381-82) OPC witness Merchant also testified that no additional charge for testing should be implemented. (TR 357-58; TR 382; EXH 25) OPC argued that the reuse rate of \$1.34 per 1,000 gallons reduces the burden on the residential and general service customers to achieve the approved revenue requirement, compared to a lower reuse rate which has the opposite effect. (TR 382)

County

The County argued the appropriate rate for KWRU's reuse service is \$1.34 per 1,000 gallons and the Commission should consider setting the rate significantly higher in order to provide better price signals and to reduce the rate impacts on KWRU's regular service customers. The County agreed that reuse service is a market-based service product and should be priced closer to the cost of market alternatives such as FKA. (County BR 36-37)

Harbor Shores

In their brief, Harbor Shores agreed with OPC's position on this issue. (Harbor Shores BR 2)

ANALYSIS

When assessing the appropriate reuse rate, it is Commission practice to base the reuse rate on the market rather than cost, which provides an incentive for customers to use reuse.²⁷ The only other provider of reuse in the area, charges \$2.92 to \$5.85 per 1,000 gallons depending on the relative rate block for potable water usage. (EXH 30) Since revenues from reuse rates are used to help reduce the cost of wastewater service, a higher reuse rate would alleviate the impact of the rate increase to wastewater customers for KWRU.

KWRU's primary method of disposal of treated wastewater is through reuse, but reuse that is not sold is disposed through Class V injection wells. (EXH 53) The Utility currently provides reuse service to two customers, Monroe County which receives a contracted amount of reuse water, and the affiliated Key West Golf Club. (EXH 51; TR 608-609) KWRU's test year reuse rate for these customers was \$0.68 per 1,000 gallons. In addition, the Utility also charged for reuse testing consistent with operating revenues in Audit Finding 9. (EXH 48; TR 357; EXH 25)

Witness Johnson is concerned that there will be a reduction in reuse demand if the reuse rate is priced too high since the advanced treatment of wastewater decreases the nutrients in the reuse water. He argues there is no benefit to purchasing the Utility's reuse water over potable water. (TR 608-09) However, staff does not agree with witness Johnson's concern since the Utility's two reuse customers consist of the County, which receives a contracted amount of reuse water per day, and a golf course which is affiliated with KWRU. (TR 608-09; TR 381-82)

²⁷Order No. PSC-15-0233-PAA-WS, in Docket No. 149960-WS, dated June 3, 2015, *In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation*; Order No. PSC-09-0393-TRF-SU, in Docket No. 080712-SU, dated June 2, 2009, *In re: Application for approval of new class of service for reuse water service in Martin County by Indiantown Company, Inc.*

The Utility charged for reuse testing in addition to the reuse rate of \$0.68 per 1,000 gallons during the test year, a reuse rate of \$1.34 would encompass all costs and would negate the need for an additional charge for testing therefore, staff agrees with OPC that no additional charge for testing is necessary. (TR 357; TR 382; EXH 25) Staff believes \$1.34 is an appropriate market-based reuse rate that will mitigate the rate impact to the general body of rate payers.

CONCLUSION

Based on the above, staff recommends that the appropriate rate for reuse service is \$1.34 per 1,000 gallons. The Utility should be required to file revised tariff sheets and a proposed customer notice to reflect the approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates shall not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 34: What are the appropriate miscellaneous service charges to be charged by KWRU?

Recommendation: Staff recommends the miscellaneous service charges shown below in Table 34-7 should be approved for KWRU. The Utility should be required to file a proposed customer notice and tariff to reflect the Commission-approved charges. The approved charges should be effective 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 charges should not be implemented until staff has approved the proposed customer notice. KWRU should provide proof of the date notice was given no less than 10 days after the date of the notice. (Friedrich)

Position of the Parties

KWRU: No position.

OPC: The initial connection charge and normal reconnection charge should remain at \$15 and the premises visit charge should be \$20 for normal hours and \$45 for after hours, as approved by the Commission in its PAA Order. Should the Commission approve higher levels of miscellaneous service charges, higher miscellaneous revenues should be used when calculating the amount of revenues to be collected from service rates.

County: No position.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

The Utility's existing and proposed miscellaneous service charges are shown below in Table 34-6. (EXH 50; EXH 95) Utility witness Swain stated that the original miscellaneous service charges filed by the Utility in its MFRs were incorrect and the accurate request for the Utility's miscellaneous service charges is contained in a response to a production of documents. (EXH 50; TR 256-57)

In addition to labor, transportation, and supplies, the Utility included postage in the cost justification for all miscellaneous service charges except the violation reconnection charge. (EXH 95) Witness Swain testified that the cost of postage in the Utility's cost justification is only incorporated into the charges that require direct postage. Witness Swain stated that miscellaneous service charges are designed to place the cost burden on the individual who caused the cost to be incurred. (TR 252; KWRU BR 30)

OPC

OPC Witness Merchant testified that \$15 is the appropriate amount for the initial and normal reconnection charges and the Utility’s premises visit charge should be \$20 for normal hours and \$45 for after hours, consistent with the PAA Order. (TR 383) Witness Merchant identified the possibility of the Commission approving higher miscellaneous service charges. As a result, witness Merchant believes, if higher charges are indeed approved, the incremental increase should be taken into consideration by Commission staff when calculating the amount of revenues to be collected from service rates. (TR 401-02; TR 433-34)

County

The County takes no position on this issue. (County BR 37)

Harbor Shores

In their brief, Harbor Shores agreed with OPC’s position on this issue. (Harbor Shores BR 2)

ANALYSIS

Miscellaneous service charges are defined as initial connection, normal reconnection, violation reconnection, and premises visit charges according to Rule 25-30.460, F.A.C. The Commission is authorized to establish, increase, or change a rate or charge other than monthly rates or service availability charges pursuant to Section 367.091, F.S. Witness Swain defended the incorporation of overhead, such as benefits and insurance, in miscellaneous service charges; otherwise, the overhead would be included in the Utility’s expenses and recovered from the general body of rate payers. (TR 253-54) Staff agrees with witness Swain that miscellaneous service charges are designed to place the cost on the cost causer. (TR 252) KWRU provided the cost justification required by Section 367.091, F.S. and is reflected below in Tables 34-1, 34-2, and 34-3.

**Table 34-1
 Initial Connection and Normal Reconnection Cost Justification**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1hr)	\$22.50	Labor (Administrative) (\$22.50/hr x 1hr)	\$22.50
Labor (Field) (\$22.50/hr x 3/4hr)	\$16.88	Labor (Field) (\$33.75/hr x 2hr)	\$67.50
Labor (Supervision) (\$68.00/hr x 1/4hr)	\$17.00	Labor (Supervision) (\$68.00/hr x 1/4hr)	\$17.00
Benefits & Insurance (23%)	\$12.97	Benefits & Insurance (23%)	\$24.61
Transportation (\$.56/mile x 3 miles)	\$1.68	Transportation (\$.56/mile x 6 miles)	\$3.36
Supplies	\$0.80	Supplies	\$0.80
Postage	\$0.49	Postage	\$0.49
Total	\$72.32	Total	\$136.26

Source: Exhibit 50

**Table 34-2
 Violation Reconnection Cost Justification**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1hr)	\$22.50	Labor (Administrative) (\$22.50/hr x 1hr)	\$22.50
Labor (Field) (\$22.50/hr x 5/2hr)	\$56.25	Labor (\$33.75/hr x 4hr)	\$135.00
Labor (Supervision) (\$68.00/hr x 1/2hr)	\$34.00	Labor (Supervision) (\$68.00/hr x 1/2hr)	\$34.00
Benefits & Insurance (23%)	\$25.93	Benefits & Insurance (23%)	\$44.05
Transportation (\$.56/mile x 6 miles)	\$3.36	Transportation (\$.56/mile x 6 miles)	\$3.36
Supplies	\$0.30	Supplies	\$0.80
Total	\$142.34	Total	\$239.71

Source: Exhibit 50

**Table 34-3
 Premises Visit Cost Justification**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1/2hr)	\$11.25	Labor (Administrative) (\$22.50/hr x 1/2hr)	\$11.25
Labor (Field) (\$22.50/hr x 1hr)	\$22.50	Labor (Field) (\$33.75/hr x 2hr)	\$67.50
Labor (Supervision) (\$68.00/hr x 1/4hr)	\$17.00	Labor (Supervision) (\$68.00/hr x 1/4hr)	\$17.00
Benefits & Insurance (23%)	\$11.67	Benefits & Insurance (23%)	\$22.02
Transportation (\$.56/mile x 3 miles)	\$1.68	Transportation (\$.56/mile x 6 miles)	\$3.36
Supplies	\$0.30	Supplies	\$0.80
Postage	\$0.49	Postage	\$0.49
Total	\$64.89	Total	\$122.42

Source: Exhibit 50

Staff analyzed the Utility's cost justification for its requested miscellaneous service charges. (EXH 50) KWRU stated that the field labor involved in normal connections and disconnections, if necessary, consists of completing a work order administered by the Operations Manager. (EXH 49) Staff believes that one-third of an hour is a more appropriate time allotment to calculate field labor compared to the Utility's request of one hour. As indicated by the Utility, field labor is only administered as necessary, which indicates that field labor time is not always required. (EXH 49) Therefore, staff believes one-third of an hour is more appropriate to use to calculate field labor in the Utility's miscellaneous service charges because it will balance

occurrences of visits that do not necessitate any field labor at all and the occurrences that may require additional time.

In addition, staff does not believe it is appropriate to recover postage costs because these activities do not warrant a need for direct postage or noticing. The Utility witness agreed that the cost of postage is only needed for activities that require direct postage.

The Utility requested a violation reconnection charge of \$150 for normal hours and \$225 for after hours. (EXH 50) However, staff believes this charge should be the Utility's actual cost to administer and process the charge pursuant to Rule 25-30.460(1)(c), F.A.C. Calculations for staff's recommended miscellaneous service charges are shown below in Tables 34-4, 34-5, and 34-6. Staff rounded its calculated miscellaneous service charges up to the nearest tenth.

**Table 34-4
 Initial Connection Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1 hr)	\$22.50	Labor (Administrative) (\$22.50/hr x 1 hr)	\$22.50
Labor (Field) (\$22.50/hr x 1/3 hr)	\$7.50	Labor (Field) (\$33.75/hr x 1/3hr)	\$11.25
Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00	Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00
Benefits & Insurance (23%)	\$10.81	Benefits & Insurance (23%)	\$11.67
Transportation (\$.56/mile x 3 miles-to/from)	\$3.36	Transportation (\$.56/mile x 6 miles-to/from)	\$6.72
Total	\$61.17	Total	\$69.14

Source: Exhibit 50

**Table 34-5
 Normal Reconnection Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1 hr)	\$22.50	Labor (Administrative) (\$22.50/hr x 1 hr)	\$22.50
Labor (Field) (\$22.50/hr x (1/4 hr x 2))	\$11.25	Labor (Field) (\$33.75/hr x (1/4 hr x 2))	\$16.88
Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00	Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00
Benefits & Insurance (23%)	\$11.67	Benefits & Insurance (23%)	\$12.97
Transportation (\$.56/mile x 3 miles-to/from) x 2	\$3.36	Transportation (\$.56/mile x 6 miles-to/from) x 2	\$6.72
Total	\$65.78	Total	\$76.07

Source: Exhibit 50

**Table 34-6
 Premises Visit Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1/2 hr)	\$11.25	Labor (Administrative) (\$22.50/hr x 1/2 hr)	\$11.25
Labor (Field) (\$22.50/hr x 1/3 hr)	\$7.50	Labor (Field) (\$33.75/hr x 1/3hr)	\$11.25
Labor (Supervisor) (\$68.00/hr x 1/4hr)	\$17.00	Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00
Benefits & Insurance (23%)	\$8.22	Benefits & Insurance (23%)	\$9.09
Transportation (\$.56/mile x 3 miles-to/from)	\$3.36	Transportation (\$.56/mile x 6 miles-to/from)	\$6.72
Total	\$47.33	Total	\$ 55.31

CONCLUSION

Based on the above, staff recommends the miscellaneous service charges shown below in Table 34-7 should be approved for KWRU. The Utility should be required to file a proposed customer notice and tariff to reflect the Commission-approved charges. The approved charges should be effective 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 charges should not be implemented until staff has approved the proposed customer notice. KWRU should provide proof of the date notice was given no less than 10 days after the date of the notice.

**Table 34-7
 Miscellaneous Service Charges**

Charge	Utility's Existing Charges		Utility's Proposed Charges		Staff's Recommended Charges	
	Normal Hours	After Hours	Normal Hours	After Hours	Normal Hours	After Hours
Initial Connection	\$15.00	N/A	\$75.00	\$125.00	\$61.20	\$69.20
Normal Reconnection	\$15.00	N/A	\$75.00	\$125.00	\$65.80	\$76.10
Violation Reconnection	Actual Cost	N/A	\$150.00	\$225.00	Actual Cost	
Premises Visit	\$20.00	\$45.00	\$65.00	\$125.00	\$47.40	\$55.40

Issue 35: Should KWRU be authorized to collect Non-Sufficient Funds (NSF) charges? (Stipulation 11) (Friedrich)

Approved Stipulation: As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

- a. \$25, if the face value does not exceed \$50,
- b. \$30, if the face value exceeds \$50 but does not exceed \$300,
- c. \$40, if the face value exceeds \$300,
- d. Or five percent of the face amount of the check, whichever is greater.

Issue 36: Should KWRU request to implement a late payment charge be approved?

Recommendation: The Utility's request to implement a late payment charge of \$9.50 should be approved. The Utility should be required to file a proposed customer notice and tariff to reflect the Commission-approved charge. The approved charge should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Friedrich)

Position of the Parties

KWRU: Yes, \$9.50.

OPC: No position was provided in the post-hearing brief.

County: Yes. Monroe County agrees with the Parties' Stipulation on this issue.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In rebuttal testimony, the Utility requested a late payment charge of \$9.50, although in its MFRs, the Utility requested a late payment charge of \$5.00. (TR 256-257; EXH 50; EXH 16) Utility witness Swain testified that schedule E-4 of the Utility's MFRs is inaccurate. (TR 256-257; EXH 16) In response to an interrogatory, the Utility provided the necessary cost justification pursuant to Section 367.091(6), F.S., for the Utility's request to increase its late payment charge to \$9.50. (EXH 50)

The Utility's cost justification contained a cost break-down of labor, printing, and postage for a late payment charge. (EXH 9; EXH 50) KWRU also explained it spends eight hours per month processing notices for 30 accounts or 16 minutes per account. (EXH 9; EXH 49) The Utility included the hourly salary of \$33.75 for the employee who processes late payments, including overhead. (EXH 9; EXH 50) Utility witness Swain testified the overhead percentage includes Utility incurred expenses such as paid holidays or insurance of the employee processing the late payment and should be used to develop a late payment charge. (TR 259) The Utility also provided an hourly salary of \$22.76 for the employee processing late payment charges, excluding overhead. (EXH 49)

OPC

OPC witness Merchant testified that the late payment charge of \$6.50 approved in the PAA order is more reasonable than the Utility's request for a late payment charge of \$9.50. (TR 421) Witness Merchant did not provide any additional information in her testimony with the exception

that she agrees with the PAA Order's justification of the recommended late payment charge of \$6.50. (TR 383; TR 421)

County

In its brief, the County agreed with the parties' stipulation on this issue. However, this issue was not stipulated by all parties. (County BR 38)

Harbor Shores

In its brief, Harbor Shores agreed with OPC's position on this issue. (Harbor Shores BR 2)

ANALYSIS

In response to an interrogatory, the Utility revised its requested late payment charge from \$5.00 to \$9.50 and provided cost justification in support of its request required by Section 367.091, F.S. (EXH 16; EXH 9; EXH 50; TR 256-257) The purpose of this charge is not only to provide an incentive for customers to make timely payment, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing delinquent accounts solely upon those who are cost causers. KWRU's requested late payment charge includes labor, printing, and postage costs. (EXH 9; EXH 50)

KRWU's labor component of \$9.00 was calculated by using an hourly salary of \$33.75 which includes overhead for holidays and insurance. (EXH 50) Witness Merchant testified that the PAA Order late payment charge of \$6.50, which included a labor component of \$6.00, was more reasonable. (TR 383) In addition to the labor component, the Utility included the cost for printing of \$0.02 and postage of \$0.49. (EXH 50)

**Table 36-1
Late Payment Charge Cost Justification**

Activity	Utility Proposed
Labor	\$9.00
Printing	\$0.02
Postage	<u>\$0.49</u>
Total	<u>\$9.51</u>

Source: Exhibit 50

Staff agrees with Utility witness Swain that overhead should be included in the labor calculations for this charge in order to allow the Utility to recover all expenses associated with the employee processing the late payment charges. (TR 259) Staff agrees with KWRU's cost justification for its requested late payment charge. (EXH 50)

CONCLUSION

Based on the above, the Utility's request to implement a late payment charge of \$9.50 should be approved. The Utility should be required to file a proposed customer notice and tariff to reflect

the Commission-approved charge. The approved charge should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 37: Should KWRU's be authorized to collect a Lift Station Cleaning charge? (Stipulation 12) (Friedrich)

Approved Stipulation: KWRU should be authorized to collect a monthly lift station cleaning charge of \$1,462 from the Monroe County Detention Center.

Issue 38: If the Commission approves a rate increase for KWRU, when and under what circumstances should it be implemented?

Recommendation: The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice (Johnson, Norris)

Position of the Parties

KWRU: Immediately upon issuance of Final Order.

OPC: It depends upon how much time there is between the issuance of the Final Order in this case and the in-service date for the 0.350 MGD plant expansion. If not in-service, the Commission should determine the difference between post-protest Phase I and Phase II rates, and institute a credit against Phase II rates for the difference until KWRU demonstrates the project is in-service. If in-service, post-protest Phase II rates are appropriate.

County: Any permanent or Phase II rate increase should be implemented on the first day of the first month (or the first day of the first billing period) following commercial operation of the new WWTP, but not less than 30 days from the date of the Commission's vote.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU asserted that it is not necessary to wait for the entirety of the Utility's capital improvements to be in service before implementing the approved rates. KWRU contended that significant sums have already been expended in order to bring its plant into compliance and to be able to accommodate the changing service area. KWRU added that the PAA Order in this case did not include any recovery for pro forma plant and subsequently did not truly allow a return on investment during the rate case. KWRU stressed that the Utility began operating at AWT as of January 1, 2016 but the interim rates did not go in effect until April 2016, which means that KWRU will never recover the first four months of AWT operations. KWRU stated that it is appropriate for KWRU to begin recovering these expenses as soon as the Commission has approved the rates. (KWRU BR 31)

OPC

In its brief, OPC explained that no further Phase I rate implementation is necessary and the Phase I revenue requirement should be used to determine whether any refunds are owed to customers. (OPC BR 44) OPC stated that Phase II rates should be implemented no sooner than 30 days after

the new plant is approved by DEP, placed into service and becomes used and useful. (OPC BR 44) OPC explained that once verified by Commission staff, the Phase II 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. (OPC BR 44) OPC also indicated that if the Utility encounters any unforeseen events that will impede the completion of the Phase II plant items, then KWRU should immediately notify the Commission and all parties to this proceeding in advance of the deadline to allow ample time to review whether an extension is appropriate. (OPC BR 44)

County

The County explained that no further Phase I rate implementation is necessary and the Phase I revenue requirement should be used to determine whether any refunds are owed to KWRU's customers. The County stressed that rates should be implemented on the first day of the first billing period following the date on which the new WWTP begins serving the Utility's customers. The County added that rates should go into effect no earlier than 30 days following the date of the Commission's vote. The County submitted that the Commission staff should verify that the new WWTP is actually serving customers and that the rates charged in the tariff are the approved rates. The County concluded that safeguards should be put into place to allow the parties an avenue to participate further in the rate implementation process if there are any delays in completing the Phase II plant items by KWRU. (County BR 38-39)

Harbor Shores

In its brief, Harbor Shores agreed with OPC. (Harbor Shores BR 2)

ANALYSIS

As addressed in Issue 2, staff believes a two-phased revenue requirement is not appropriate. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 39: Should any portion of the implemented PAA rates be refunded? If so, how should the refund be calculated, and what is the amount of the refund?

Recommendation: Yes. The proper refund amount should be calculated by using the same data used to establish final rates, excluding adjustments that do not relate to the period that PAA rates are in effect. The revised revenue requirement for this collection period should be compared to the amount of PAA revenue requirement implemented. This results in a PAA refund of 7.43 percent. The refund should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. (Norris)

Position of the Parties

KWRU: No portion of the PAA Order rates should be refunded.

OPC: Yes, the Commission-approved Phase I PAA rates that were implemented by the Utility were excessive based on OPC's Phase I revenue requirement calculation. The refund should be applied consistent with the Commission's refund rule and should be credited to customer bills over the same amount of time that the increased rates were collected to offset the initial impact of the Phase II rate increase.

County: Yes. The amount to be refunded should be the difference between (a) the amounts collected by KWRU from the effective date of the PAA Rates (on or about April 15, 2016) until the effective date of the new, permanent Phase II Rates minus (b) the revenue requirements as determined by the Commission that should have been collected during the same time period. Any refund should be calculated and made pursuant to Commission Rule 25-30.360, F.A.C.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

In its brief, KWRU stated that this is a fall-out issue based upon arguments in previous issues, and that, as such, revenue requirement determined in the final order would be in excess of rates set forth in the PAA Order. (KWRU BR 31) KWRU witness Swain testified that it would be correct to compare the final rates, including the pro forma plant expansion, and the PAA rates to determine if a refund was necessary. (TR 793-794) Witness Swain further testified that she agreed that the Commission has the discretion to calculate a Phase I revenue requirement for purposes of a refund, although she did not believe that was a correct method (TR 794)

OPC

Based on the testimony of OPC witness Merchant, the Commission-approved Phase I PAA rates that were implemented by the Utility were excessive based on OPC's Phase I revenue requirement calculation. (OPC BR 44) OPC stated that a refund is appropriate in this case and

should be applied consistent with the Commission's refund rule and should be credited to customer bills over the same amount of time that the increased rates were collected to offset the initial impact of the Phase II rate increase. (TR 385; OPC BR 44)

County

In its brief, the County stated that the Utility should be required to refund to customers the difference between the amounts collected pursuant to the Phase I Rates (PAA Rates) and the Commission-determined appropriate revenue requirement for the time that the Phase I Rates continue in effect. (County BR 40) Further, the County elaborated that any required refund should actually be refunded to customers, in lieu of a credit to future bills, given the socioeconomic conditions of Stock Island, which is the lowest income area of Monroe County. (TR 449-450; County BR 40-41) Additionally, the County asserted that any refund should be calculated and made pursuant to Rule 25-30.360, F.A.C. (County BR 41)

Harbor Shores

In its brief, Harbor Shores agreed with OPC. (Harbor Shores BR 2)

ANALYSIS

By Order No. PSC-16-0123-PAA-WU, issued March 23, 2016, the Commission approved the implementation of PAA wastewater rates subject to refund, pursuant to Section 367.081(8), F.S. Consistent with Section 367.082(4), F.S., any refund must be calculated to reduce the rate of return of the Utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in this period to do not relate to the period that PAA rates are in effect should be removed. These adjustments include removing incremental rate expense not embedded in PAA rates, pro forma plant, and thus, the non-used and useful adjustment to rate base. To establish the proper refund amount, staff calculated a revised revenue requirement for this period using the same data used to establish final rates. Using the principles discussed above, the \$2,238,046 Phase I revenue requirement granted in the PAA Order for the test year is greater than the revised revenue requirement for the PAA rate collection period of \$2,071,790. This results in a PAA refund of 7.43 percent.

The prescriptive methodology of calculating a potential refund of the PAA rates implemented during the pendency of this proceeding make a separate Phase I revenue requirement unnecessary. As described above, the method isolates a comparison of circumstances that are applicable in the period the PAA rates are in effect. Staff would note that this methodology is consistent with the methodology approved in the 2011 rate case for Water Management Services, Inc. to determine whether a refund was appropriate for the implemented PAA rates in that case.²⁸

Moreover, contrary to the County's position that any refunds should be in the form of an actual refund and not a bill credit, staff recommends that refunds should be distributed in the form of a credit to the customers' bills and a refund check should be issued only in the event that the customer is no longer on the system in accordance with Rule 25-30.360(5), F.A.C.

²⁸ Order No. PSC-13-0197-FOF-WU, p. 39, issued May 16, 2013, in Docket No. 110200, *In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.*

CONCLUSION

The proper refund amount should be calculated by using the same data used to establish final rates, excluding adjustments that do not relate to the period that PAA rates are in effect. The revised revenue requirement for this collection period should be compared to the amount of PAA revenue requirement implemented. This results in a PAA refund of 7.43 percent. The refund should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C.

Issue 40: Should the Utility's approved service availability policy and charges be revised? (Stipulation 14) (Johnson)

Approved Stipulation: The appropriate plant capacity charge should remain unchanged at \$2,700 per ERC.

Docket No. 150071-SU
Date: January 26, 2017

Issue 41

Issue 41: DROPPED.

Issue 42: Did KWRU bill and collect revenues in accordance with its approved tariffs? If not, what is the appropriate remedy?

Recommendation: Staff recommends that a new docket be opened, and a full audit and investigation be conducted in regards to KWRU's billing practices in order to determine if any orders, rules, or statutes were violated by the Utility. Further, the Utility should be put on notice that failure to comply with Commission orders, rules, or statutes will subject the Utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues or revocation of its certificate as set forth in Section 367.161, F.S. (Friedrich)

Position of the Parties

KWRU: All bills and collections were in accordance with the intent of the approved tariffs.

OPC: No. The PAA Order stated KWRU's billing practices for several general service customers is inconsistent with its approved tariff, and that Staff would address whether the Utility should be ordered to 'show cause' for charging rates that are inconsistent with its tariff. KWRU's response to Commission Staff's letter and the issues are very complex. The Commission should initiate a full audit/investigation to determine the Utility's compliance with its tariffs and what actions should be taken.

County: No. The Commission should initiate a full investigation to determine the extent to which the Utility has not billed and collected in accordance with its applicable tariffs and take appropriate action based on the results of that investigation.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU stated that it billed and collected revenues in accordance with the intent of its approved tariff. (KWRU BR 32) The Utility argued that its billing practices are due to the mixed-usage of certain properties, property redevelopment, and the mischaracterization of customer class when all residential accounts were established using the FKAA water meter data and customer information. (KWRU BR 32-33; EXH 84; TR 620-21; TR 623-24; TR 628-29) The Utility addressed several billing practices identified by staff with regard to KWRU billing inconsistent with its tariff in a letter dated March 21, 2016. Safe Harbor Marina was billed a negotiated rate instead of the tariff-approved bulk flat rate, Sunset Marina was billed a base facility charge (BFC) for an 8" and 2" meter and additional BFCs for each of the 64 units behind the meters, and Meridian West and Flagler Village, were billed based on individual, non-FKAA meters, instead of the FKAA master meters. (EXH 84; KWRU BR 32-33) In addition, at the service hearing, a customer of KWRU testified that the Utility billed based on an effluent meter instead of the FKAA meter. (SH TR 24-29; SH TR 43-44) Utility witness Johnson testified that several

master-metered customers were misclassified and overbilled. He further testified that these customers should receive refunds with interest. (EXH 84; TR 628-29)

OPC

OPC witness Merchant argued that KWRU incorrectly billed customers in her direct testimony by referencing the PAA Order. (OPC BR 45; TR 355-57) In addition, witness Merchant contended all customers billed in error are deserving of applicable refunds. (OPC BR 45-6; EXH 84)

OPC disputed the complexity of KWRU's billing practices. Witness Merchant testified that the most efficient way to rectify this situation is for the Commission to initiate a full audit and investigation in order to accurately determine if and how much of KWRU's revenues were based on unapproved and improper billing practices. (OPC BR 47; TR 357; TR 379) In addition, witness Merchant also argued that a full audit and investigation to show cause would potentially reveal other improperly billed customers who may be owed refunds as well. (OPC BR 47; TR 357)

County

The County agreed with OPC that KWRU did not bill in accordance with its approved tariff. (County BR 41) In addition, the County agreed with KWRU, that Meridian West and Flagler Village are owed refunds, but also believe that there are additional customers who may be owed refunds as well. (County BR 41)

The County agreed with OPC that this situation should be addressed with a full investigation and audit by the Commission to determine whether and to what degree KWRU billed and collected revenues inconsistent with its tariff. (County BR 42) After an investigation has commenced, the County argued the Commission should determine if any additional refunds are necessary and if any additional actions are necessary to prevent inconsistent billing in the future. (County BR 42)

Harbor Shores

In its brief, Harbor Shores agreed with OPC's position on this issue. (Harbor Shores BR 2)

ANALYSIS

KWRU's current rate structure and rates have been developed as a result of a prior complaint docket,²⁹ several requests for a new class of service,³⁰ and as established in its last rate case.³¹

²⁹Order No. PSC-02-1165-PAA-SU, issued August 26, 2002, in Docket No. 020520-SU, *In re: Complaint by Safe Harbor Marina against K W Resort Utilities Corp. and request for new class of service for bulk wastewater rate in Monroe County.*

³⁰Order Nos. PSC-95-0335-FOF-SU, issued March 10, 1995, in Docket No. 941323-SU, *In re: Request for approval of a new class of service in Monroe County by K W Resort Utilities Corporation*; PSC-99-0489-FOF-SU, issued March 8, 1999, in Docket No. 970229-SU, *In re: Application for limited proceeding increase in reuse water rates in Monroe County by K W Resort Utilities Corp.*; PSC-02-1711-TRF-SU, issued December 9, 2002, in Docket No. 021008-SU, *In re: Request for approval of two new classes of bulk wastewater rates in Monroe County by K W Resort Utilities Corp.*; and PSC-05-0955-TRF-SU, issued October 7, 2005, in Docket No. 050474-SU, *In re: Request for approval of new class of bulk wastewater rates in Monroe County by K W Resort Utilities Corp.*

Staff has analyzed each circumstance brought forth by all parties and all customers who participated in the service hearing, as well as the Utility's responses.

The Commission has previously addressed incorrect billing practices of the Utility. Order No. PSC-02-1165-PAA-SU, issued August 26, 2002, determined that KWRU was billing discriminatory rates to Safe Harbor Marina. The Commission determined that it did not approve the monthly flat rate KWRU was billing to this general service customer. Subsequently, in the Utility's last rate case a new flat rate was approved. KWRU admitted on March 21, 2015, it billed a negotiated flat rate of \$1,650.67 per month, instead of the approved bulk rate of \$947, to Safe Harbor Marina, despite being recognized by the Commission for incorrect billing practices.³² (EXH 84; TR 620-21) Witness Johnson argued that the Utility notified the Commission of the Utility's agreement with Safe Harbor Marina but received no further response from the Commission. However, witness Johnson testified that he is aware that it requires Commission approval to change a tariff. (KWRU BR 32; TR 621) The Commission also recognized that it became aware that KWRU utilized wastewater charges in its revenue calculations that were not approved by the Commission during the review of a price index application in Order No. PSC-02-1711-TRF-SU, issued December 9, 2002. The Commission found that the Utility thoroughly understood the requirements of Sections 367.091(4) and 367.091(5), F.S., and would not initiate a new class of service without notifying the Commission in a timely matter.

During the current rate case, staff identified additional billing practices that appear to be inconsistent with the Utility's approved tariff. Based on documentation provided in prior Commission Orders, the Utility's admission of a negotiated rate, and the Utility's admission that refunds with interest are due to at least two customers, staff believes a full audit and investigation is the most effective solution. This will allow the Commission to determine if any of KWRU's revenues were based on unapproved and improper billing practices. A full audit and investigation will also determine if there are any additional customers who may be owed refunds as well. (EXH 84)

CONCLUSION

Staff recommends that a new docket be opened, and a full audit and investigation be conducted in regard to KWRU's billing practices in order to determine if any orders, rules, or statutes were violated by the Utility. Further, the Utility should be put on notice that failure to comply with Commission orders, rules, or statutes will subject the Utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues or revocation of its certificate as set forth in Section 367.161, F.S.

³¹Order No. PSC-09-0057-FOF-SU, issued January 27, 2009, in Docket No. 070293-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.*

³² Order No. PSC-02-1165-Paa-SU, issued August 26, 2002, in Docket No. 020520-SU, *In re: Complaint by Safe Harbor Marina against K W Resort Utilities, Corp. and request for new class of service for bulk wastewater rate in Monroe County.*

Issue 43: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

Recommendation: KWRU's wastewater rates should be reduced as shown on Schedule No. 4 to remove \$112,782 of wastewater rate case expense, grossed-up for RAFs, which is being 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. KWRU 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 KWRU 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. (Friedrich, Frank)

Position of the Parties

KWRU: This is a fallout issue depending upon the allowed rate case expense.

OPC: No position was stated in the post-hearing brief.

County: Agree with OPC that this is a fallout issue.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU contends that this is a fallout issue depending upon allowed rate case expense. (KWRU BR 34)

OPC

No position was stated in the post-hearing brief.

County

The County agrees with OPC that this is a fallout issue. (County BR 42)

Harbor Shores

In its brief, Harbor Shores agreed with OPC's position on this issue. (Harbor Shores BR 2)

ANALYSIS

Section 367.0816, F.S., was repealed pursuant to Ch. 2016-226, Laws of Florida, effective July 1, 2016. However, the statute was in effect when KWRU's application was filed, and therefore shall remain applicable in this case.

Section 367.0816, F.S., was repealed pursuant to Ch. 2016-226, Laws of Florida, effective July 1, 2016. However, the statute was in effect when KWRU's application was filed, and therefore shall remain applicable in this case.

Section 367.0816, F.S., requires that rates be reduced immediately following the expiration of the four-year amortization period by the amount of the rate case expense previously included in rates. The reduction will reflect the removal of \$112,782 of revenue associated with the amortization of rate case expense, the associated return on deferred rate case expense included in working capital, and the gross up for RAFs. Using KWRU's current revenues, expenses, capital structure and customer base, the reduction in revenues will result in the rate decreases as shown on Schedule No. 4.

KWRU should be required to file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The Utility should also be required to file a proposed customer notice setting forth the lower rates and the reason for the reduction. If KWRU 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 44: Should the Utility be required to notify, 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? (Stipulation 16) (Norris)

Approved Stipulation: KWRU shall notify the Commission, within 90 days of the order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts associated with the Commission-approved adjustments.

Issue 45: Should this docket be closed?

Recommendation: No. This docket should remain open for staff's verification that the Utility has completed the recommended refunds, the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and that KWRU has notified the Commission in writing that the adjustments for all applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively. (Mapp)

Position of the Parties

KWRU: Yes, upon verification of post Final Order requirements.

OPC: No. This docket should be kept open until the Commission fully resolves Issue 42 and any other issues.

County: No. The County agrees with OPC that the docket should remain open until the Commission resolves all issues.

Harbor Shores: Agrees with OPC.

Staff Analysis:

PARTIES' ARGUMENTS

KWRU

KWRU argued that there is no justification for this docket remaining open after verification of post Final Order requirements.

OPC

OPC argued that this docket should remain open until the Commission fully resolves Issue 42 and any other issues.

County

County agreed with OPC that this docket should remain open pending Commission resolution of all issues.

Harbor Shores

Harbor Shores agreed with OPC.

ANALYSIS

This docket should remain open for staff's verification that the Utility has completed the recommended refunds, the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and that KWRU has notified the Commission in writing that the adjustments for all applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively.

KWRU Schedule of Wastewater Rate Base Test Year Ended 12/31/14				Schedule No. 1-A Docket No. 150071-SU	
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year
1 Plant in Service	\$11,925,704	\$4,092,937	\$16,018,641	(\$381,738)	\$15,636,903
2 Land and Land Rights	375,923	(923)	375,000	0	375,000
3 Non-used and Useful Components	0	0	0	(1,440,804)	(1,440,804)
4 Accumulated Depreciation	(5,828,761)	(242,924)	(6,071,685)	(548,574)	(6,620,259)
5 CIAC	(9,946,997)	297,120	(9,649,877)	(372,032)	(10,021,909)
6 Amortization of CIAC	3,096,094	(81,153)	3,014,941	733,654	3,748,595
7 CWIP	0	0	0	0	0
9 Working Capital Allowance	<u>0</u>	<u>1,458,270</u>	<u>1,458,270</u>	<u>(534,599)</u>	<u>923,671</u>
11 Rate Base	<u>(\$378,037)</u>	<u>\$5,523,327</u>	<u>\$5,145,290</u>	<u>(\$2,544,093)</u>	<u>\$2,601,197</u>

KWRU		Schedule No. 1-B
Adjustments to Rate Base		Docket No. 150071-SU
Test Year Ended 12/31/14		
Explanation	Wastewater	
<u>Plant In Service</u>		
1 To reflect pro forma WWTP expansion & vacuum tank. (I-6)	(\$479,011)	
2 To reflect 2015 and 2016 routine plant additions. (I-6)	<u>97,273</u>	
Total	<u>(\$381,738)</u>	
<u>Non-used and Useful</u>		
To reflect net non-used and useful adjustment (I-11)	<u>(\$1,440,804)</u>	
<u>Accumulated Depreciation</u>		
1 To reflect pro forma plant adjustment. (I-7)	\$383,138	
2 To reflect 2015 and 2016 routine plant additions. (I-7)	(9,525)	
3 To reflect two additional years of accumulated depreciation. (I-7)	<u>(922,187)</u>	
Total	<u>(\$548,574)</u>	
<u>CIAC</u>		
To reflect CIAC collected in 2015 and 2016. (I-8)	<u>(\$372,032)</u>	
<u>Accumulated Amortization of CIAC</u>		
1 To reflect CIAC collected in 2015 and 2016. (I-9)	\$30,594	
2 To reflect two additional years of CIAC amortization. (I-9)	<u>703,061</u>	
Total	<u>\$733,654</u>	
<u>Working Capital</u>		-
1 To reflect appropriate cash balance to include in working capital. (I-12)	(\$559,311)	
2 To reflect appropriate deferred rate case expense. (I-12)	18,089	
3 To reflect appropriate miscellaneous deferred debits. (I-28)	<u>6,623</u>	
Total	<u>(\$534,599)</u>	

KWRU Capital Structure-13-Month Average Test Year Ended 12/31/14						Schedule No. 2 Docket No. 150071-SU		
Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Prorata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost
Per Utility								
1 Long-term Debt	\$1,248,337	\$0	\$1,248,337	(\$184,472)	\$1,063,865	18.74%	4.25%	0.80%
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	(276,537)	5,499,326	5,222,789	(771,795)	4,450,994	78.39%	9.18%	7.20%
5 Customer Deposits	162,972	0	162,972	0	162,972	2.87%	2.00%	0.06%
6 Deferred Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>
7 Total Capital	<u>\$1,134,772</u>	<u>\$5,499,326</u>	<u>\$6,634,098</u>	<u>(\$956,267)</u>	<u>\$5,677,831</u>	<u>100.00%</u>		<u>8.05%</u>
Per Staff								
8 Long-term Debt	\$1,248,337	\$2,251,663	\$3,500,000	(\$1,879,260)	\$1,620,740	62.31%	4.00%	2.49%
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	(276,537)	2,041,903	1,765,366	(947,880)	817,486	31.43%	11.16%	3.51%
12 Customer Deposits	162,972	0	162,972	0	162,972	6.27%	2.00%	0.13%
13 Deferred Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>
14 Total Capital	<u>\$1,134,772</u>	<u>\$4,293,566</u>	<u>\$5,428,338</u>	<u>(\$2,827,140)</u>	<u>\$2,601,198</u>	<u>100.00%</u>		<u>6.12%</u>
						LOW	HIGH	
RETURN ON EQUITY						<u>10.16%</u>	<u>12.16%</u>	
OVERALL RATE OF RETURN						<u>5.81%</u>	<u>6.44%</u>	

KWRU						Schedule No. 3-A	
Statement of Wastewater Operations						Docket No. 150071-SU	
Test Year Ended 12/31/14							
Description	Test Year Per Utility	Utility Adjustments	Adjusted Test Year Per Utility	Staff Adjustments	Staff Adjusted Test Year	Revenue Increase	Revenue Requirement
1 Operating Revenues:	<u>\$1,479,307</u>	<u>\$1,866,050</u>	<u>\$3,345,357</u>	<u>(\$1,810,558)</u>	<u>\$1,534,799</u>	<u>\$901,618</u> 58.75%	<u>\$2,436,418</u>
Operating Expenses							
2 Operation & Maintenance	\$1,199,672	\$1,056,152	\$2,255,824	(\$400,868)	\$1,854,956		\$1,854,956
3 Depreciation	95,996	282,959	378,955	(156,229)	222,726		222,726
4 Amortization	0	0	0	0	0		0
5 Taxes Other Than Income	132,607	117,733	250,340	(91,457)	158,884	40,573	199,457
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 Total Operating Expense	<u>1,428,275</u>	<u>1,456,844</u>	<u>2,885,119</u>	<u>(648,554)</u>	<u>2,236,565</u>	<u>40,573</u>	<u>2,277,138</u>
8 Operating Income	<u>\$51,032</u>	<u>\$409,206</u>	<u>\$460,238</u>	<u>(\$1,162,004)</u>	<u>(\$701,766)</u>	<u>\$861,045</u>	<u>\$159,280</u>
9 Rate Base	<u>(\$378,037)</u>		<u>\$5,145,290</u>		<u>\$2,601,197</u>		<u>\$2,601,197</u>
10 Rate of Return	<u>(13.50%)</u>		<u>8.94%</u>		<u>(26.98%)</u>		<u>6.12%</u>

KWRU		Schedule No. 3-B
Adjustment to Operating Income		Docket No. 150071-SU
Test Year Ended 12/31/14		
Explanation	Wastewater	
<u>Operating Revenues</u>		
1 To remove requested final revenue increase.	(\$1,790,496)	
2 To reflect test-year revenues. (I-19)	<u>(20,062)</u>	
Total	<u>(\$1,810,558)</u>	
<u>Operation and Maintenance Expense</u>		
1 To reflect the appropriate pro forma O&M expense for AWT. (I-23)	(\$341,471)	
2 To remove additional pro forma expense for contractual services. (I-24)	(12,350)	
3 To reflect the removal of management fees. (I-25)	(60,000)	
4 To reflect the appropriate amortization of Last Stand litigation fees. (I-28)	3,908	
5 To reflect appropriate rate case expense amortization. (I-26)	<u>9,045</u>	
Total	<u>(\$400,868)</u>	
<u>Depreciation Expense - Net</u>		
1 To reflect depreciation expense on pro forma plant adjustment. (I-29)	(\$26,414)	
2 To reflect depreciation expense on 2015 and 2016 pro forma plant. (I-29)	8,008	
3 To reflect amortization expense on CIAC adjustment. (I-29)	(20,685)	
4 To remove net depreciation on non-U&U adjustment above. (I-29)	<u>(117,138)</u>	
Total	<u>(\$156,229)</u>	
<u>Taxes Other Than Income</u>		
1 To remove RAFs on revenue adjustments above. (I-30)	(\$81,475)	
2 To reflect appropriate property taxes related to pro forma plant. (I-30)	754	
3 To reflect appropriate payroll taxes on pro forma salaries. (I-30)	(210)	
4 To remove property tax on non-U&U adjustment. (I-30)	<u>(10,526)</u>	
Total	<u>(\$91,457)</u>	

KWRU		SCHEDULE NO. 4		
TEST YEAR ENDED DECEMBER 31, 2014		DOCKET NO. 150071-SU		
MONTHLY WASTEWATER RATES				
	UTILITY CURRENT RATES	UTILITY REQUESTED RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
-				
-				
<u>Residential Service</u>				
All Meter Sizes	\$31.66	\$35.26	\$31.80	\$1.55
Charge per 1,000 gallons - Residential 10,000 gallon cap	\$5.25	\$7.66	\$5.27	\$0.26
<u>General Service</u>				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$31.66	\$35.26	\$31.80	\$1.55
1"	\$79.15	\$88.17	\$79.50	\$3.87
1-1/2"	\$158.30	\$176.32	\$159.00	\$7.75
2"	\$253.28	\$282.09	\$254.40	\$12.39
3"	\$506.56	\$564.20	\$508.80	\$24.79
4"	\$791.50	\$881.58	\$795.00	\$38.73
6"	\$1,583.00	\$1,763.17	\$1,590.00	\$77.46
8"	\$2,532.80	\$3,173.66	\$2,544.00	\$123.93
8" Turbo	\$2,849.40	\$4,055.24	\$2,862.00	\$139.42
Charge per 1,000 gallons - General Service	\$6.30	\$9.19	\$6.32	\$0.31
<u>Harbor Shores</u>				
Base Facility Charge			\$2,194.20	\$106.89
Charge per 1,000 gallons 690,000 gallon cap			\$5.27	\$0.26
<u>Private Lift Station Owners</u>				
5/8" x 3/4"	\$25.33	\$35.26	\$25.44	\$1.24
1"	\$63.32	\$88.17	\$63.60	\$3.10
1-1/2"	\$126.64	N/A	\$127.20	\$6.20
2"	\$202.62	\$282.09	\$203.52	\$9.91
3"	\$405.25	N/A	\$407.04	\$19.83
4"	\$633.20	N/A	\$636.00	\$30.98
6"	\$1,266.40	N/A	\$1,272.00	\$61.96
8"	\$2,026.24	N/A	\$2,035.20	\$99.14
Charge per 1,000 gallons - General Service	\$6.30	\$9.19	\$6.32	\$0.31
<u>Reuse Service</u>				
Per 1,000 gallons	\$0.93	\$1.35	\$1.34	\$0.07
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>				
4,000 Gallons	\$52.66	\$65.90	\$52.88	
6,000 Gallons	\$63.16	\$81.22	\$63.42	
10,000 Gallons	\$84.16	\$111.86	\$84.50	

APPENDIX

1. Plant in service should be reduced by \$817,240 based on the Staff Audit Finding 1.
2. Construction work in progress should be increased by \$303,099 for the December 31, 2014 Phase I test year based on the Staff Audit Finding 2.
3. Land should be decreased by \$923 and O&M expenses (contractual services-other) should be increased by \$1,200 for survey fees, and working capital should be increased by \$738 based on the Staff Audit Finding 3.
4. CIAC should be decreased by \$297,120, accumulated amortization of CIAC should be decreased by \$81,153, and test year amortization of CIAC should be decreased by \$14,003 based on Staff Audit Finding 4.
5. Accumulated depreciation should be increased by \$2,040 and depreciation expense should be decreased by \$5,489, based on Staff Audit Finding 5.
6. The wastewater collection system should be considered 100% used and useful.
7. The existing wastewater treatment plant should be considered 100% used and useful before the wastewater treatment plant expansion is placed into service.
8. Accounts receivable-other should be increased by \$40,067 and miscellaneous current and accrued assets should be decreased by \$13,422, based on Staff Audit Finding 7.
9. Test year revenues for 2014, for Phase I, if applicable, are as follows:

Residential and General Service	\$1,411,781
Reuse Revenues	\$50,400
Miscellaneous Revenues	\$72,619
Total	\$1,534,799
10. O&M expenses should be decreased by \$4,512, based on Staff Audit Finding 10 and \$6,276, based on Staff Audit Finding 11.
11. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:
 - a. \$25, if the face value does not exceed \$50,
 - b. \$30, if the face value exceeds \$50 but does not exceed \$300,
 - c. \$40, if the face value exceeds \$300,
 - d. Or five percent of the face amount of the check, whichever is greater.
12. KWRU should be authorized to collect a monthly lift station cleaning charge of \$1,462 from the Monroe County Detention Center.

13. In calculating the rates to be collected from service rates, the amount of revenues from reuse rates should be calculated using the final approved reuse rate.
14. The appropriate plant capacity charge should remain unchanged at \$2,700 per ERC.
15. The appropriate leverage formula to use is the leverage formula in effect when the Commission makes its final decision.
16. KWRU shall notify the Commission, within 90 days of the order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts associated with the Commission-approved adjustments.