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 March 3, 2020

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Item 1

State of Florida



Public Service Commission

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

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

DATE: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Yglesias de Ayala) *YJA*
Office of the General Counsel (Dziechciarz) *AD* *MYA* *CH*

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 3/3/2020 - 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>
20200025-TX	JEA	8945

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.

RECEIVED-FPSC
 2020 FEB 20 AM 9:33
 COMMISSION CLERK

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: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Williams) *CH*
Office of the General Counsel (Murphy) *GT CH*

RE: Docket No. 20200047-TP – Appointment of Jane E. Johnson to the Telecommunications Access System Act of 1991 (TASA) Advisory Committee. *TT Cm*

AGENDA: 03/03/20 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2020 FEB 20 AM 9:33
COMMISSION CLERK

Case Background

The Telecommunications Access System Act of 1991 (TASA) established a statewide telecommunications relay system.¹ Section 427.704(1), F.S., provides that the Florida Public Service Commission (Commission) shall establish, implement, promote, and oversee the administration of a statewide telecommunications access system to provide access to telecommunications relay services by persons who are deaf, hard of hearing or speech impaired, and others who communicate with them.

Pursuant to Section 427.706, F.S., the Commission shall appoint an advisory committee of no more than 10 members to assist the Commission with Florida's relay system. There are currently seven representatives serving on the advisory committee.

¹ Sections 427.701 – 427.708, Florida Statutes (F.S.).

Docket No. 20200047-TP

Date: February 20, 2020

Pursuant to Section 427.706(2), F.S., the advisory committee provides the expertise, experience, and perspective of persons who are deaf, hard of hearing, or speech impaired to the Commission and the telecommunications relay service administrator, Florida Telecommunications Relay, Inc. (FTRI). Specifically, the committee advises the Commission and FTRI on the quality and cost-effectiveness of the relay service system, including the distribution of specialized telecommunications equipment to clients. Members of the advisory committee are not compensated for their services but are entitled to per diem and travel expenses provided through the Florida Public Service Regulatory Trust Fund.

Discussion of Issues

Issue 1: Should the Commission approve the appointment of Jane E. Johnson to the TASA advisory committee effective immediately?

Recommendation: Yes. Staff recommends that the Commission approve the appointment of Jane E. Johnson to the TASA advisory committee effective immediately. (Williams)

Staff Analysis: Ms. Johnson seeks appointment to the TASA advisory committee to further the efforts of Florida's Centers for Independent Living to improve access to telecommunications services for the deaf and hard of hearing. Centers for Independent Living are non-profit organizations that support independent living for persons with disabilities. Services provided include finding and using assistive technology. In her duties as the Executive Director for the Florida Association of Centers for Independent Living, Ms. Johnson coordinates advocacy efforts that promote independence for individuals with disabilities.

Ms. Johnson has also served as Chief of Staff for the Department of Children & Families (December 2012 - April 2017), Health & Human Services Policy Coordinator for the Executive Office of the Governor (January 2011 - December 2012), Director of the Florida Agency for Persons with Disabilities (April 2007 - May 2008), and Executive Director of the Florida Alliance for Assistive Services & Technology (December 2003 - April 2007).

Some of Ms. Johnson's relevant volunteer contributions include:

- Board Member, Florida Disabled Outdoors Association
- Governor's Commission on Disabilities
- Florida Developmental Disabilities Council
- Governor's Task Force on Accessible Electronic & Information Technology

Ms. Johnson holds a Bachelor of Arts from Georgetown University, and a Masters in Public Administration from Norwich University.

Ms. Johnson's experience with Florida's Centers for Independent Living, and her advocacy on behalf of citizens with disabilities makes her a great choice for appointment to the TASA advisory committee as set forth at Section 427.706(2), F.S. Therefore, staff recommends that the Commission approve the appointment of Jane E. Johnson to the TASA advisory committee effective immediately.

Issue 2: Should this docket be closed?

Recommendation: Yes. The docket should be closed upon the issuance of a final order in this docket. (Murphy)

Staff Analysis: The docket should be closed upon the issuance of a final order 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: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Richards, D. Buys, Cicchetti) *CRR* *MC* *ALM*
Office of the General Counsel (Brownless) *MB*

RE: Docket No. 20200033-EI – Joint motion for approval of Amendment No. 1 to stipulation and settlement, by Florida Public Utilities Company and Office of Public Counsel.

AGENDA: 03/03/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On July 3, 2017, Florida Public Utilities Company (FPUC or Company) petitioned the Commission to include \$15,241,515 in capital projects in its rate base and increase its rates and charges by the amount necessary to recover the revenue requirement of \$1,823,869 on those projects. These projects fell into three categories: (1) grid modernization and safety; (2) storm hardening; and (3) an interconnection with Florida Power & Light Company (FPL). The Office of Public Counsel (OPC) intervened on September 21, 2017, and the parties entered into a Stipulation and Settlement (2017 Settlement) resolving all issues which was approved by Order No. PSC-2017-0488-PAA-EI.¹

¹Order No. PSC-2017-0488-PAA-EI, issued December 26, 2017, in Docket No. 20170150-EI, *In re: Petition for limited proceeding to include reliability and modernization projects in rate base, by Florida Public Utilities Company.*

Article VII of the 2017 Settlement addresses changes in the federal or state corporate income tax rates and requires that federal or state corporate tax savings be addressed through a base rate reduction within 120 days of the effective date of such change.

On September 12, 2019, the Florida Department of Revenue issued a Tax Information Publication (TIP) announcing that the Florida corporate income tax rate was reduced from 5.500 percent to 4.458 percent effective retroactively to January 1, 2019, and continuing through December 31, 2021. The TIP indicates that the Florida corporate income tax rate will return to 5.50 percent effective January 1, 2022.

On January 22, 2020, to address this Florida tax change, FPUC and OPC filed a Joint Motion for Approval of Amendment No. 1 to Stipulation and [2017] Settlement (Joint Motion). Amendment No. 1 is Attachment A hereto. Both OPC and FPUC agree that the impact of the State Tax Rate change on FPUC's NOI associated with base rates is approximately \$35,000 annually for years 2019 through 2021. Acknowledging the tax savings amounts are based upon FPUC's best estimates, the Company calculated the actual amount of the tax benefit to be flowed-through to customers. For calendar year 2019, the NOI annual tax savings impact of \$35,825 will be applied to the Company's existing fuel and purchased power cost recovery balance with interest, which will serve to reduce FPUC's Fuel Cost Recovery factors for 2021. The savings for calendar years 2020 and 2021 will be trued-up to actual and applied to the Company's existing fuel and purchased power cost recovery balances in 2020 and 2021 with interest, thereby reducing FPUC's Fuel Cost Recovery factors for 2022 and 2023.

If approved by the Commission, this State Tax Amendment will take effect upon Commission approval and expire on December 31, 2023, unless otherwise modified by Commission order.

The Commission should vote on whether or not to grant the Joint Motion and approve Amendment No. 1 to the 2017 Stipulation.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Motion for Approval of Amendment) Docket No.
to Stipulation and Settlement to Address State)
Income Tax Flow Through.)
_____) January 21, 2020

AMENDMENT NO. 1 TO STIPULATION AND SETTLEMENT

WHEREAS, on July 3, 2017, Florida Public Utilities Company (“FPUC” or “Company”) petitioned the Florida Public Service Commission (“the Commission”) for a limited proceeding to include \$15,241,515 in capital projects in rate base and increase its rates and charges by the amount necessary to recover the revenue requirement of \$1,823,869 on those projects with the effective day of such rate increase to be January 1, 2018 (“Limited Proceeding”); and

WHEREAS, on September 21, 2017, the Office of Public Counsel (“OPC”) intervened in that proceeding on behalf of the Citizens of Florida; and

WHEREAS, the Parties entered into a Stipulation and Settlement to resolve the Limited Proceeding (“Limited Proceeding Settlement”), which was filed November 28, 2017, and approved by Commission Order No. PSC-2017-0488-PAA-EI, issued December 26, 2017; and

WHEREAS, the Limited Proceeding Settlement provided for an increase to FPUC’s base rates sufficient to generate an additional \$1,558,050 of annual revenues to be implemented January 1, 2018, for purposes of recovering the revenue requirement on certain specified projects;

WHEREAS, Article VII of the Limited Proceeding Settlement recognized that federal or state Tax Reform could impact the effective tax rate recognized by the Company in FPSC-adjusted reported net operating income and the measurement of existing and prospective deferred federal income tax assets and liabilities reflected in the FPSC adjusted capital structure; and

WHEREAS, on September 12, 2019, the Florida Department of Revenue issued a Tax Information Publication (“TIP”) announcing that the Florida corporate income tax rate was

reduced from 5.5 percent to 4.458 percent effective retroactive to January 1, 2019 and continuing in effect through December 31, 2021 ("State Tax Rate Change"); and

WHEREAS, the TIP indicates that the Florida corporate income tax rate will return to 5.5 percent effective January 1, 2022; and

WHEREAS, the Parties agree that the state corporate income tax rate reduction became effective before the Limited Proceeding Settlement expired; and

WHEREAS, Section VII of the Limited Proceeding Settlement required that federal or state corporate tax savings be addressed through a base rate reduction within 120 days of the effective date of such change; and

WHEREAS, FPUC and OPC have signed this Amendment No. 1 ("State Tax Amendment") to the Limited Proceeding Settlement addressing an alternative mechanism by which the tax savings associated with the temporary state corporate income tax rate reduction will be passed on to FPUC's customers that is more efficient and equally beneficial; and

WHEREAS, unless the context clearly intends otherwise, the term "Party" or "Parties" shall mean a signatory or signatories to this State Tax Amendment; and

WHEREAS, the legal system, as well as the Commission, favors settlement of disputes for a variety of reasons, including that they are in the public interest; and

WHEREAS, the Parties to this State Tax Amendment, individually and collectively, agree that this State Tax Amendment, taken as a whole, is in the public interest; and

WHEREAS, the Parties have entered into this State Tax Amendment in compromise of positions taken in accord with their rights and interests under Chapters 350, 366 and 120, Florida Statutes, as applicable, and as part of a negotiated exchange of consideration among the Parties, each Party has agreed to concessions to the others with the expectation, intent, and understanding such that all provisions of this State Tax Amendment, upon approval by the Commission, will be enforced by the Commission as to all matters addressed herein with respect to both Parties; and

WHEREAS, the Parties agree that this State Tax Amendment is consistent with the underlying intent of the Limited Proceeding Settlement approved in Docket No. 20170150-EI; and

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, which the Parties agree constitute good and valuable consideration, the Parties hereby stipulate and agree as follows:

I. This State Tax Amendment will take effect upon Commission approval (“Effective Date”) and expire December 31, 2023, unless otherwise modified by Commission order.

II. The Parties agree that the impact of the State Tax Rate change on FPUC’s Net Operating Income (“NOI”) associated with base rates is a savings of approximately \$35,000 annually for years 2019 through 2021.

III. The Parties agree that the tax savings identified herein are based upon FPUC’s best estimates at the time of the filing of this State Tax Amendment. FPUC shall calculate the actual amount of the tax benefit to be flowed-through to customers.

III. For calendar year 2019, the NOI annual tax savings impact of \$35,825 will be applied to the Company’s existing fuel and purchased power cost recovery balance with interest, which will serve to reduce FPUC’s Fuel Cost Recovery factors for 2021. The savings for calendar years 2020 and 2021 will be trued-up to actual and applied to the Company’s existing fuel and purchased power cost recovery balances in 2020 and 2021 with interest, thereby reducing FPUC’s Fuel Cost Recovery factors for 2022 and 2023.

VI. The Parties reserve all rights, unless such rights are expressly waived or released, under the terms of this State Tax Amendment.

VII. The Parties hereto agree that this State Tax Amendment is in the public interest. As such, the Parties agree that this State Tax Amendment should be approved. The Parties likewise agree and acknowledge that the Commission’s approval of this State Tax Amendment promotes planning and regulatory certainty for both FPUC and its customers.

VIII. The Parties agree that they will support this State Tax Amendment and will not request or support any order, relief, outcome, or result in conflict with the terms of this State Tax Amendment in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this State Tax Amendment or the subject matter hereof.

IX. No Party will assert in any proceeding before the Commission that this State Tax Amendment or any of the terms herein shall have any precedential value. The Parties' agreement to the terms in this State Tax Amendment shall be without prejudice to any Party's ability to advocate a different position in future proceedings not involving this State Tax Amendment.

X. The provisions of this State Tax Amendment modify the provisions of Section VII the Limited Proceeding Settlement and survive the expiration of the Limited Proceeding Settlement only to the extent expressly set forth herein.

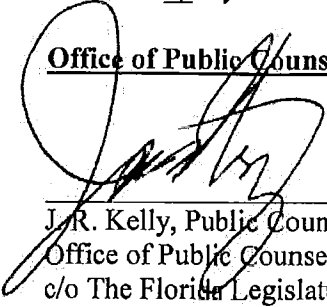
VIII. This State Tax Amendment is dated as of January 21, 2020. It may be executed in one (1) or more counterparts, all of which will be considered one and the same State Tax Amendment and each of which will be deemed an original.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties evidence their acceptance and agreement with the provisions of this State Tax Amendment by their signature(s).

Dated this 21 day of January 2020.

Office of Public Counsel



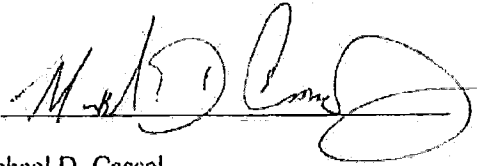
J.R. Kelly, Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400

Docket No. 20190156-EI

IN WITNESS WHEREOF, the Parties evidence their acceptance and agreement with the provisions of this State Tax Amendment by their signature(s).

Dated this 21 day of January 2020.

Florida Public Utilities Company

By: 

Michael D. Cassel
Assistant Vice President, Florida Public Utilities Company

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: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Wilson, T. Brown)
Division of Economics (Hudson, Sibley) *SH*
Division of Engineering (Doehling, M. Watts) *MI*
Office of the General Counsel (Dziechciarz) *FRAD*

KAW MZ

ALM

ESD
9/11
TS
CM

RE: Docket No. 20190116-SU – Application for staff-assisted rate case in Brevard County, and request for interim rate increase by Merritt Island Utility Company.

AGENDA: 03/03/20 – Regular Agenda – Proposed Agency Action – Except for Issue Nos. 10, 11, and 12 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

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

SPECIAL INSTRUCTIONS: None

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Case Background

Merritt Island Utility Company, Inc. (Merritt Island or Utility) is a Class C wastewater system serving approximately 141 residential customers and 1 general service bulk customer in Brevard County. Water service is provided by the City of Cocoa. According to the Utility's 2018 Annual Report, total gross revenues were \$65,442 and total operating expenses were \$73,250, resulting in a net operating loss of \$7,808.

Mobile Home Investors, Inc. was initially granted a certificate to operate a wastewater system in existence in 1974.¹ The wastewater system was subsequently transferred several times.² The most recent transfer to Merritt Island was approved in 2017.³ During the pendency of the transfer docket, it was discovered that the Utility was serving customers outside of its certificated territory. Consequently, Merritt Island filed an application with the Commission to amend its certificate to add territory in Brevard County, which was approved in Order No. PSC-2018-0243-FOF-SU.⁴

Rate base was last established for the Utility in a 2008 staff-assisted rate case (SARC).⁵ In addition, net book value for transfer purposes was updated to reflect balances as of December 22, 2016, when the system was transferred to Merritt Island. The Utility's test year rates became effective on June 13, 2018, following approval of a 2018 price index rate adjustment.

On May 16, 2019, Merritt Island filed an application for a SARC. The Utility requested the 12-month period ended March 31, 2019, as the test year for purposes of both interim and final rates. The Commission approved a 5.38 percent interim increase in Order No. PSC-2019-0309-PCO-SU.⁶ A customer meeting was held in Merritt Island, Florida on November 4, 2019.

¹Order No. 6365, issued December 2, 1974, in Docket No. 730391-S, *In re: Application of Mobile Home Investors, Inc., for a certificate to operate an existing sewer utility in Brevard County, Florida.*

²Order No. 7296, issued June 28, 1976, in Docket No. 750664-S, *In re: Application of Mobile Home Investors, Inc., and Colony Park Utilities, Inc. for approval of the transfer of assets and Certificate No.137-S from the former to the latter. (Section 367.071, Florida Statutes);* Order No. PSC-03-0320-FOF-SU, issued March 6, 2003, in Docket No. 020930-SU, *In re: Application for transfer of majority organizational control of Colony Park Utilities, Inc. holder of Certificate No. 137-S in Brevard County, from Robert Warren, Lenore Warren, William Warren, and Carol Kendall to Eileen Rogow, Arthur Rogow, and Philip Young;* Order No. PSC-07-0420-FOF-SU, issued May 14, 2007, in Docket No. 060636-SU, *In re: Application for transfer of majority organizational control of Colony Park Utilities, Inc., holder of Certificate No. 137-S in Brevard County from Eileen Rogow to Michael Abramowitz;* Order No. PSC-14-0673-PAA-SU, issued December 5, 2014, in Docket No. 120285-SU, *In re: Application to transfer wastewater facilities and Certificate No. 137-S in Brevard County from Colony Park Utilities, Inc. to Colony Park Development Utilities, LLC.*

³Order No. PSC-2017-0366-PAA-SU, issued September 27, 2017, in Docket No. 20170018-SU, *In re: Application to transfer wastewater system and Certificate No. 137-S in Brevard County from Colony Park Development Utilities, LLC to Merritt Island Utility Company, Inc.*

⁴Order No. PSC-2018-0243-FOF-SU, issued May 10, 2018, in Docket No. 20170142-SU, *In re: Application for amendment of Certificate No. 137-S for extension of wastewater service territory in Brevard County, by Merritt Island Utility Company, Inc.*

⁵Order No. PSC-08-0760-PAA-SU, issued November 17, 2008, in Docket No. 080104-SU, *In re: Application for staff-assisted rate case in Brevard County by Colony Park Utilities, Inc.*

⁶Order No. PSC-2019-0309-PCO-SU, issued July 29, 2019, in Docket No. 20190116-SU, *In re: Application for staff-assisted rate case in Brevard County, and request for interim rate increase by Merritt Island Utility Company.*

Docket No. 20190116-SU

Date: February 20, 2020

The Commission has jurisdiction in this case pursuant to Sections 367.011, 367.081, 367.0812, 367.0814, and 367.121, Florida Statutes (F.S.)

Discussion of Issues

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

Recommendation: Yes. Merritt Island has been responsive to its customer complaints; therefore, staff recommends that the quality of service be considered satisfactory. (Doehling, M. Watts)

Staff Analysis: Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), the Commission, in every rate case, shall make a determination of the quality of service provided by the utility by evaluating the quality of the utility's product (water) and the utility's attempt to address customer satisfaction (water and wastewater). As a wastewater only utility, this evaluation was limited to the utility's attempt to address customer satisfaction. The Rule further states that the most recent chemical analyses, outstanding citations, violations, and consent orders on file with the Florida Department of Environmental Protection (DEP) and the county health department, along with any DEP and county health department officials' testimony concerning quality of service shall be considered. In addition, any customer testimony, comments, or complaints shall also be considered.

The Utility's Attempt to Address Customer Satisfaction

On November 4, 2019, a customer meeting was held at the Merritt Island Public Library to receive customer comments concerning quality of service. No customers attended the meeting. A review of the Commission's complaint tracking system revealed two customer complaints against the Utility during the previous five-year period. Both complaints were filed by the same customer, and both concerned the condition of a road and issues with the collection system. The Utility has not received any customer complaints aside from the two previously discussed. No complaints were received by the DEP.

In response to the first complaint dated June 6, 2017, the Utility had an employee evaluate the situation, apply a patch to the road, and explain to the customer what further repairs may be needed. The customer raised the same concern approximately 11 months after the initial complaint. The Utility responded to the customer, and explained that it is continuing to evaluate a long-term solution to the issue. Merritt Island did note that it examined the patch and determined it to be stable. Merritt Island is aware that under this road, along with a few other streets, the wastewater collection mains will eventually need to be replaced. However, the Utility does not plan to begin construction at this time.

Conclusion

Merritt Island has been responsive to its customer complaints; therefore, staff recommends that the quality of service be considered satisfactory.

Issue 2: Are the infrastructure and operating conditions of Merritt Island's wastewater system in compliance with DEP regulations?

Recommendation: Merritt Island's wastewater system is not currently in compliance with the DEP, but the Utility is working to address the issues noted by the DEP. (M. Watts)

Staff Analysis: Rule 25-30.225(2), F.A.C., requires each wastewater utility to maintain and operate its plant and facilities by employing qualified operators in accordance with the rules of the DEP. Rule 25-30.433(2), F.A.C., requires consideration of whether the infrastructure and operating conditions of the plant and facilities are in compliance with Rule 25-30.225, F.A.C. In making this determination, the Commission must consider testimony of the DEP and county health department officials, compliance evaluation inspections, citations, violations, and consent orders issued to the utility, customer testimony, comments, and complaints, and utility testimony and responses to the aforementioned items.

Wastewater System Operating Condition

Merritt Island's wastewater treatment plant (WWTP) is a 0.070 million gallon per day (MGD) annual average daily flow (AADF) extended aeration domestic WWTP consisting of aeration, secondary clarification, chlorination, and aerobic digestion of biosolids. Since acquiring the wastewater treatment system, the Utility has made several improvements to bring the system into compliance with the DEP requirements. In response to a November 14, 2019 warning letter issued by the DEP, Merritt Island is working to address vegetation growth in the three rapid infiltration basins (RIB). Merritt Island met with DEP personnel on January 9, 2020, to address the matter. The Utility discussed the improvements to the WWTP that it has made, the improvements currently underway, and the planned improvements to the plant. To date, the Utility has:

1. Removed four truckloads of grit, sand, old piping, and debris from aeration bays.
2. Installed all new fine bubble diffusers.
3. Installed a new bar screen and headworks piping.
4. Installed two new blowers and air header.
5. Installed a new panel box, controls, conduit and outlet plugs.
6. Cleaned out two of the three RIBs.

The third RIB is still drying out from the area's rainy season. When dry, the vegetation and sludge will be removed. During its meeting with the DEP, the Utility discussed entering into a Consent Order in which the Utility would propose additional improvements to the plant in lieu of a direct fine. The Utility is otherwise in compliance with the DEP requirements.

Conclusion

Merritt Island's wastewater system is not currently in compliance with the DEP, but the Utility is working to address the issues noted by the DEP.

Issue 3: What are the used and useful (U&U) percentages for the Utility's wastewater treatment plant (WWTP) and collection system?

Recommendation: Staff recommends that the WWTP and collection system be considered 100 percent U&U. Also, staff recommends that a 5 percent adjustment to purchased power and chemical expenses be made for excessive infiltration and inflow (I&I). (M. Watts)

Staff Analysis: Pursuant to Rule 25-30.432, F.A.C., the U&U percentage of a WWTP is based on the plant flows, growth allowance, I&I and the plant permitted capacity. Other factors, such as whether the service area is built out and whether the plant flows have decreased due to conservation may also be considered. The DEP permitted capacity is currently at 70,000 gallons per day (gpd) based on the annual average daily flow. The collection system is composed of clay and polyvinyl chloride pipes, and two lift stations.

WWTP and Collection System U&U

The Utility indicated in its application that it has 141 mobile home connections in its service area, with no vacant lots. The Utility has one bulk customer that serves 120 equivalent residential connections. During the previous SARC, staff conducted a field inspection and confirmed that the service area is built out.⁷ In that same rate case, the Commission found the WWTP and collection system to be 100 percent U&U. Since that time there have been no changes to the collection system and there are no plans for expansion. Because the service area is built out and there are no plans for expansion, staff recommends that the WWTP and collection system should be considered 100 percent U&U.

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. Staff calculates the allowable infiltration based on system parameters, and calculates the allowable inflow based on water sold to customers. The sum of these amounts is the allowable I&I. Staff next calculates the estimated amount of wastewater returned from customers. The estimated return is determined by summing 80 percent of the water sold to residential customers 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 the wastewater system 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.

For the first seven months of the test year, the amount of wastewater was not accurately measured because of an inoperable flow meter. The situation was rectified by November 1, 2018, leaving staff with five months, November 2018 through March 2019, of valid wastewater treatment data. Therefore, staff chose the period November 2018 through October 2019 to perform its I&I evaluation. To do this, staff obtained water sold data from the audit work papers for the period November 2018 through March 2019, and from the City of Cocoa for the period April 2019 through October 2019. Staff obtained the amount of wastewater treated for the same period from the Discharge Monitoring Reports submitted to the DEP by the Utility.

⁷Order No. PSC-08-0760-PAA-SU, issued November 17, 2008, in Docket No. 080104-SU, *In re: Application for staff-assisted rate case in Brevard County by Colony Park Utilities, Inc.*

Using the pipe lengths of the Utility's collection system, the infiltration allowance is calculated to be 2,314,847 gallons per year. Ten percent of the total gallons sold to customers is allowed for inflow, which totals 1,245,600 gallons. The sum of these amounts is the total allowable I&I which is 3,359,487 gallons per year. The amount calculated for estimated return is 10,446,400 gallons per year. The estimated I&I is calculated by subtracting the total allowable I&I from the amount of wastewater actually treated during the 12-month period being evaluated, which is 4,321,500 gallons. The actual amount exceeds the allowable amount with an excess I&I of 962,013 gallons and, therefore, there is 5 percent excessive I&I. As such, staff recommends that a 5 percent adjustment to purchased power and chemical expenses be made for excessive I&I.

Conclusion

Staff recommends that Merritt Island's WWTP and collection system should be considered 100 percent U&U. Also, staff recommends that a 5 percent adjustment to purchased power and chemical expenses be made for excessive I&I.

Issue 4: Should the Commission approve a year-end rate base for Merritt Island Utility Company, Inc., and if so, what is the appropriate year-end wastewater test year rate base?

Recommendation: Yes. The Commission should approve a year-end rate base for Merritt Island. The appropriate year-end test year rate base is \$150,423. (Wilson, T. Brown, Doehling, M. Watts)

Staff Analysis: The appropriate components of a Utility's rate base include utility plant in service, contributions-in-aid-of-construction (CIAC), accumulated depreciation, amortization of CIAC, and working capital. The Utility's rates and charges were approved in a 2008 SARC.⁸ The rates were subsequently amended through two price index increases. This utility has historically operated at a loss. The Utility requested the test year ended March 31, 2019, for the instant case. Commission audit staff determined that the Utility's books and records are in compliance with the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA). A summary of each component of rate base and staff's recommended adjustments are discussed below.

Year-End Rate Base

In its application, the Utility requested a year-end rate base for its wastewater system in order to have an opportunity to recover its allowed rate of return on the significant capital improvements that were made after the acquisition. These improvements represent a significant portion of the wastewater plant in service. In the transfer order, the Commission approved a net book value for wastewater plant in service of \$166,766.⁹ During the requested test year, Merritt Island made more than \$95,000 of plant investments. If an average rate base is used, the Utility will not be afforded the opportunity to recover its allowed rate of return on the new investment and will be put in the position of needing to request a subsequent SARC at a later date.

The Commission has the authority to apply a year-end rate base, but should only apply a year-end rate base in extraordinary circumstances.¹⁰ Staff believes extraordinary circumstances exist in the instant case. Subsequent to the acquisition, the Utility made significant improvements to the wastewater system, which were required by the DEP. The year-end rate base will provide the Utility with an opportunity to recover the investment made to improve service quality and to provide for compensatory rates for this Utility in this rate case. The Commission has previously authorized the use of a year-end rate base in other cases involving significant test year improvements.¹¹ Therefore, staff recommends that the Commission approve a year-end rate base for Merritt Island.

⁸Order No. PSC-08-0760-PAA-SU, issued November 17, 2008, in Docket No. 080104-SU, *In re: Application for staff-assisted rate case in Brevard County by Colony Park Utility, Inc.*

⁹Order No. PSC-2017-0366-PAA-SU, issued September 27, 2017, in Docket No. 20170018-SU, *In re: Application to transfer wastewater system and Certificate No. 137-S in Brevard County from Colony Park Development Utilities, LLC to Merritt Island Utility Company, Inc.*

¹⁰*See, Citizens of Florida v. Hawkins*, (Fla.1978). 356 So. 2d 254.

¹¹Order No. PSC-98-0763-FOF-SU, issued June 3, 1998, in Docket No. 971182-SU, *In re: Application for staff-assisted rate case in Marion County by BFF Corp.*; Order No. PSC-00-1774-PAA-WU, issued September 27, 2000, in Docket No. 991627-WU, *In re: Application for rate increase in Polk County by Park Water Company Inc.*; Order No. PSC-01-0323-PAA-WU, issued February 5, 2001, in Docket No. 000580-WU, *In re: Application for staff-*

Utility Plant in Service (UPIS)

The Utility recorded a test year UPIS balance of \$266,370. In addition to numerous plant additions that have been made by the Utility since the transfer, Merritt Island also requested pro forma consideration of an emergency pump replacement and the installation of piping to divert effluent between its rapid infiltration basins (RIB). Based on support documentation, the pump replacement was included as part of test year plant. As such, staff did not include the pump replacement in its pro forma plant calculations to avoid inclusion of duplicative costs.

As discussed in Issue 2, the Utility is currently working with the DEP to address vegetation growth in its three rapid RIBs. Two of the three RIBs have been cleared of vegetation. The third RIB has dense growth that needs to be cleared.¹² Prior to bringing in the heavy equipment required to clear the vegetation, the soil in the RIB must first be dried out. Therefore, new piping was installed to divert flows from this RIB to the other two, and is included in the Utility's pro forma request. As this work is being done pursuant to a warning letter issued by the DEP, staff believes this pro forma request is prudent. As such, staff increased UPIS by \$5,813 to reflect the pro forma piping. There were no retirements associated with the piping since it did not previously exist at the ponds. Staff also made corresponding adjustments to accumulated depreciation (discussed below), while depreciation expense and taxes other than income adjustments for taxes related to pro forma plant are discussed in Issue 7. Consistent with Commission practice, no averaging adjustments are applied to pro forma additions. Therefore, staff recommends that the appropriate UPIS balance is \$272,183 (\$266,370 + \$5,813).

Land & Land Rights

The Utility recorded a test year land balance of \$30,479. The Commission approved a land balance of \$30,479 in the Utility's 2017 transfer docket.¹³ There have been no additions to land since the transfer; therefore, no adjustments are necessary. Staff recommends a land and land rights balance of \$30,479.

Used & Useful

As discussed in Issue 3, Merritt Island's WWTP and collection system are considered 100 percent U&U. Therefore, no U&U adjustments are necessary.

Accumulated Depreciation

Merritt Island recorded a test year accumulated depreciation balance of \$161,473. Staff decreased accumulated depreciation by \$460 to reflect appropriate test year depreciation

assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc. (Alturas Water Works); and Order No. PSC-02-1449-PAA-WS, issued October 21, 2002, in Docket No. 011451-WS, In re: Investigation of water and wastewater rates for possible overearnings by Plantation Bay Utility Co. in Volusia County; Order No. PSC-2017-0428-PAA-WS, issued November 7, 2017, in Docket No. 20160195-WS, In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc., and Order No. PSC-2018-0553-PAA-WS, issued November 19, 2018, in Docket No. 20180021-WU, In re: Application for staff-assisted rate case in Highlands County by Country Walk Utilities, Inc.

¹²The vegetation clearing costs are discussed in Issue 7. Two of the ponds have been completed, and one is being considered as part of pro forma O&M. All three projects will be amortized over a five-year period.

¹³Order No. PSC-2017-0366-PAA-SU, issued September 27, 2017, in Docket No. 20170018-SU, *In re: Application to transfer wastewater system and Certificate No. 137-S in Brevard County from Colony Park Development Utilities, LLC to Merritt Island Utility Company, Inc.*, p.6.

balances pursuant to Rule 25-30.140, F.A.C. In addition, staff recommends an adjustment associated with the pro forma plant project discussed above. Staff's adjustment to accumulated depreciation for pro forma plant results in an increase of \$182. Staff's adjustments to this account result in a decrease of \$278 (\$460 - \$182). Therefore, staff recommends an accumulated depreciation balance of \$161,195 (\$161,473 - \$278).

Contributions in Aid of Construction (CIAC)

The Utility recorded a test year CIAC balance of \$23,500. Based on staff's review, no adjustment is necessary. Based on Order No. PSC-2017-0366-PAA-SU, CIAC is fully amortized. Therefore, staff recommends that the appropriate balance is \$23,500.¹⁴

Accumulated Amortization of CIAC

The Utility recorded a test year accumulated amortization of CIAC balance of \$23,500. Based on staff's review, no adjustment is necessary since CIAC is fully amortized. Therefore, staff recommends that the appropriate balance is \$23,500.

Acquisition Adjustment and Accumulated Amortization of Acquisition Adjustment

The Utility recorded test year balances of \$175 and \$40 for an acquisition adjustment and the associated accumulated amortization, respectively. An acquisition adjustment results when the purchase price differs from the original cost of the assets (net book value) adjusted to the time of the acquisition. Pursuant to Rule 25-30.0371(3), F.A.C., the Commission determined in Docket No. 20170018-SU that a negative acquisition adjustment of \$175 shall be recognized for ratemaking purposes.¹⁵ Based on the Commission's decision in that docket, the negative acquisition adjustment shall be amortized over a seven-year period from the date of issuance of the Commission order approving the transfer of assets. Therefore, staff recommends appropriate balances of \$175 and \$40 for an acquisition adjustment and the associated accumulated amortization, respectively.

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(3), F.A.C., staff used the one-eighth of the operation and maintenance (O&M) expense formula approach for calculating the working capital allowance. Section 367.081(9), F.S., prohibits a utility from earning a return on the unamortized balance of rate case expense. As such, staff removed the rate case expense balance of \$512 for this calculation, resulting in an adjusted O&M expense balance of \$72,729 (\$73,241 - \$512). Applying this formula approach to the adjusted O&M expense balance, staff recommends a working capital allowance of \$9,091 ($\$72,729 \div 8$).

Rate Base Summary

Based on the forgoing, staff recommends that the appropriate year-end test year rate base is \$150,423. Rate base is shown on Schedule No. 1-A. The related adjustments are shown on Schedule No. 1-B.

¹⁴Order No. PSC-2017-0366-PAA-SU, issued September 27, 2017, in Docket No. 20170018-SU, *In re: Application to transfer wastewater system and Certificate No. 137-S in Brevard County from Colony Park Development Utilities, LLC to Merritt Island Utility Company, Inc.*

¹⁵*Id.*

Issue 5: What is the appropriate rate of return on equity and overall rate of return for Merritt Island?

Recommendation: The appropriate return on equity (ROE) is 7.85 percent with a range of 6.85 percent to 8.85 percent. The appropriate overall rate of return is 7.85 percent. (Wilson, T. Brown)

Staff Analysis: Merritt Island's capital structure consists of \$150,000 in common equity. The Utility has no customer deposits. Audit staff determined that no test year adjustments were necessary. The Utility's capital structure has been reconciled with staff's recommended rate base. The appropriate ROE is 7.85 percent based upon the Commission-approved leverage formula currently in effect.¹⁶ Staff recommends an ROE of 7.85 percent, with a range of 6.85 percent to 8.85 percent, and an overall rate of return of 7.85 percent. The ROE and overall rate of return are shown on Schedule No. 2

¹⁶Order No. PSC-2019-0267-PAA-WS, issued July 1, 2019, in Docket No. 20190006-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 6: What are the appropriate test year revenues for Merritt Island?

Recommendation: The appropriate test year revenues are \$65,658. (Sibley)

Staff Analysis: Merritt Island recorded in its general ledger \$66,595 in test year revenues, which consists of \$66,595 in service revenues and no miscellaneous revenues. The City of Cocoa provides the billing and collection of the monthly wastewater charges for Merritt Island. The City of Cocoa submits the monthly collections to Merritt Island no later than the 15th of the following month.

The Utility had a rate increase subsequent to the test year as a result of a price index adjustment. In order to determine the appropriate test year service revenues, staff applied the number of billing determinants by the rates in effect as of June 9, 2019. As a result, staff determined that service revenues should be \$65,658, which is a \$937 (\$66,595-\$65,658) decrease to test year service revenues. This adjustment to service revenues is due to a timing difference between the billing register provided by the City of Cocoa and the general ledger maintained by Merritt Island. Staff has no adjustment to miscellaneous revenues. Staff recommends that the appropriate test year revenues are \$65,658.

Issue 7: What is the appropriate amount of operating expenses for Merritt Island?

Recommendation: The appropriate amount of operating expense for Merritt Island is \$87,417. (Wilson, T. Brown, Doehling, M. Watts)

Staff Analysis: Merritt Island recorded operating expense of \$80,736 for the test year ended March 31, 2019. The test year operation & maintenance (O&M) expenses have been reviewed, including invoices, canceled checks, and other supporting documentation. Staff has made a few adjustments to the Utility's operating expenses as summarized below.

Operation & Maintenance Expense

Salaries and Wages – Officers (703)

The Utility recorded salaries and wages – officers expense of \$5,000 in the test year to reflect the president's monthly salary of \$417. According to the Utility's 2018 Annual Report, Merritt Island's officers also include an accounting manager who does not receive a salary included in this amount. In addition, the Utility indicated in audit work papers that the president only receives compensation through distribution of retained earnings if there are any net operating profits from operations that are not used for continuing operations or capital improvements. As such, staff recommends salaries and wages - officers expense for the test year of \$5,000.

Sludge Removal Expense (711)

The Utility recorded sludge removal expense of \$4,000 in the test year. Supporting documentation confirming the sludge removal expense was provided. Staff made no adjustments to sludge removal expense. Therefore, staff recommends sludge removal expense for the test year of \$4,000.

Purchased Power (715)

The Utility recorded purchased power expense of \$5,764 in the test year. Supporting documentation confirming the purchased power expense was provided. As discussed in Issue 3, staff recommends an I&I adjustment of 5 percent. Therefore, we decreased this account by \$288 ($\$5,764 \times .05 = \288) to reflect a 5 percent excessive I&I adjustment. Therefore, staff recommends purchased power expense for the test year of \$5,476 ($\$5,764 - \288).

Chemicals Expense (718)

The Utility recorded chemicals expense of \$2,425 in the test year. Supporting documentation confirming the chemicals expense was provided. As discussed in Issue 3, staff recommends an I&I adjustment of 5 percent. Therefore, we decreased this account by \$121 ($\$2,425 \times .05 = \121) to reflect a 5 percent excessive I&I adjustment. Therefore, staff recommends chemicals expense for the test year of \$2,304 ($\$2,425 - \121).

Contractual Services – Engineering (731)

The Utility recorded contractual services – engineering expense of \$1,200. Supporting documentation confirming the expense was related to engineering work associated with the permit transfer was provided. As such, staff believes that the one-time expense should be amortized over five years, or \$240 ($\$1,200 \div 5$ years) per year. Staff removed \$960 ($\240×4) from this account to reflect the expense being amortized over a five-year period, and included only one year's amortization in the test year.

The Utility incurred two non-recurring expense items during the test year that were not included in O&M expenses. The first expense was a non-recurring expense of \$6,221 for engineering work on service territory maps and legal description for the Utility's new service area, which were required as part of the Utility's certificate amendment in Docket No. 20170142-SU.¹⁷ The expense was incurred in July 2018. Staff believes the expense should be included in O&M and amortized over five years, or \$1,244 ($\$6,221 \div 5$) per year. The second expense, for DEP required pond clearing, is discussed in "Miscellaneous Expense" below. Therefore, staff recommends contractual services - engineering expense for the test year of \$1,484 ($\$1,200 - \$960 + \$1,244$).

Contractual Services – Accounting (732)

The Utility recorded contractual services – accounting expense of \$400. Supporting documentation confirming the accounting expense was used for preparing and filing the corporate tax preparation was provided. Staff made no adjustments to accounting expense. Therefore, staff recommends contractual services - accounting expense for the test year of \$400.

Contractual Services – Legal (733)

The Utility recorded contractual services – legal expense of \$366 in the test year. Supporting documentation confirming the legal expense was provided. Staff made no adjustments to this account. As such, staff recommends contractual services – legal expense for the test year of \$366.

Contractual Services - Other Expense (736)

During the test year, the Utility recorded contractual services - other expense of \$46,123. Merritt Island receives all of its operational and administrative services under a contract with an affiliated company, U.S. Water Services Corporation (USWSC or U.S. Water). Pursuant to the contract, Merritt Island employed the services of USWSC to perform various functions: administrative management, operations, maintenance, and billing/collection for the Utility. These include management and financial oversight, wastewater system operations, and maintenance. The USWSC contract dated October 1, 2017, was originally in the amount of \$45,277. According to the Utility, this contract amount has increased to \$47,211 as a result of annual index increases over time.¹⁸ This represents a known and measurable increase of \$1,088 ($\$47,211 - \$46,123$) over the amount included in the test year.

On August 9, 2019, Merritt Island submitted documentation containing additional information related to its outside contractual services agreement with USWSC.¹⁹ According to Merritt Island, USWSC currently operates in 60 of Florida's 67 counties, providing service to over 1,000 utility systems, and services to over 1,000,000 customers daily. USWSC's president and majority shareholder has been in the water and wastewater utility management and operations industry for over 30 years. Merritt Island contracts with USWSC for the following services:

1. Wastewater Operations

¹⁷Docket No. 20170142-SU, *In re: Application for amendment of Certificate No. 137-S for extension of wastewater service territory in Brevard County, by Merritt Island Utility Company, Inc.*

¹⁸Document No. 07318-2019, filed August 9, 2019, p. 5.

¹⁹Document No. 07318-2019.

2. System Maintenance and Repairs
3. Regulatory Affairs
4. Testing
5. Accounting
6. Personnel
7. Office Space and Equipment

According to Merritt Island, each of the service contracts that USWSC enters into with a utility “are different and are priced differently depending on numerous factors.”²⁰ These factors include the number of employees needed and the number of hours required per system for successful operation. Additional considerations include whether USWSC provides sludge hauling, chemicals, power, offices, vehicles, etc., or if these items are provided by the utility.

Staff notes that similar relationships currently exist for three other regulated utilities in Marion County; Tradewinds Utilities, Inc. (Tradewinds), C.F.A.T. H2O, Inc. (CFAT), and BFF Corp. (BFF). All have contractual service agreements with MIRA International, Inc. (MIRA). Their respective agreements cover similar services to those included in the agreement between Merritt Island and USWSC. In addition to a relationship established by their contractual service agreements, the same individuals own the three utilities listed above and MIRA. As such, the relationship is similar to that of Merritt Island and USWSC.

As detailed in Table 7-1 below, based on the three most recent Annual Reports, BFF had average operation and maintenance (O&M) expense of \$617.86 per Equivalent Residential Connection (ERC), CFAT had average O&M expense of \$426.77 per ERC, and Tradewinds had average O&M expense of \$501.24 per ERC.

**Table 7-1
 Comparable Wastewater O&M Expense Per ERC**

Annual Report Year	BFF (112 ERCs)	CFAT (227 ERCs)	Tradewinds²¹ (368 ERCs)
2016	\$533.13	\$404.88	\$479.71
2017	\$694.34	\$401.54	\$512.87
2018	\$626.09	\$473.89	\$511.14
3-Year Average	\$617.86	\$426.77	\$501.24

Source: BFF, CFAT, and Tradewinds 2016-2018 Annual Reports; and staff calculations.

Under staff’s proposed revenue requirement, Merritt Island’s O&M expense is \$280.62 per ERC. This proposed expense is 54.58 percent less than BFF, 34.25 percent less than CFAT, and 44.01 percent less than Tradewinds.

Additional support offered by Merritt Island included the “2016 American Water Works Association Benchmarking Performance Indicators for Water and Wastewater” (AWWA Benchmark) and an independent third-party contract and benchmarking review commissioned by the Florida Governmental Utility Authority (FGUA), which was issued in 2013. According to the

²⁰Document No. 07318-2019, p. 6.

²¹Tradewinds is a Class B utility.

AWWA Benchmark, the median O&M expense per account of the 8 wastewater companies surveyed is \$367.91, including customer service costs. This figure is 31.11 percent higher than the O&M expense per ERC (\$280.62) staff is recommending for Merritt Island.

The contract and benchmarking review commissioned by FGUA was undertaken to review charges by USWSC in comparison to similar water and wastewater utilities throughout the United States. The FGUA study concluded that the USWSC costs on a per account basis fell within the top quartile (lower cost) of other utilities.²² While the Utility has represented that there was a flaw in the data presented in the 2013 study, staff's greater concern is the age of some of the underlying data, which can be tied to AWWA's 2011 Benchmarking Performance Indicators. As such, staff believes that the 2016 Benchmarking Performance Indicators are a more appropriate reference point.

In its filing, Merritt Island asserted that if it was required to establish a stand-alone utility with personnel for maintenance, customer service, accounting, regulatory compliance, etc., then the cost would exceed that of the current USWSC contract. As the Utility noted in its supplemental filing, O&M expenses would be incurred regardless of the size of the customer base. In regard to the appropriateness of utility contracts with affiliated companies, the Utility cited *GTE v. Deason*, 642 So. 2d 545 (Fla. 1994), in which the Florida Supreme Court stated:

The mere fact that a utility is doing business with an affiliate does not mean that unfair or excess profits are being generated, without more. Charles F. Phillips, Jr. *The Regulation of Public Utilities* 254-255 (1988). We believe the standard must be whether the transactions exceed the going market rate or otherwise inherently unfair . . . [i]f the answer is "no," then the PSC may not reject the utility's position.

Staff compared Merritt Island to three "sister" wastewater utilities that had rate cases approved in the last five years by calculating a three-year average O&M expense per ERC using information contained in each utility's 2016, 2017, and 2018 Annual Reports. Staff then compared Merritt Island to five non-U.S. Water affiliated wastewater utilities using the same criteria.²³ Based on that criteria, the average O&M expense per ERC of the sister utilities was \$359.45. The average O&M expense per ERC for the non-U.S. Water wastewater utilities was \$314.15. Merritt Island's O&M expense is \$280.62 per ERC under staff's recommended revenue requirement. Table 7-2 reflects the average O&M expense per ERC for Merritt Island, and the average O&M expense per ERC for the U.S. Water sister utilities and non-U.S. Water utilities.

Table 7-2
Wastewater O&M Expense Per ERC

Utility	O&M Exp./ERC
U.S. Water Sister Utilities (3-Yr. Avg.)	\$359.45
Non-U.S. Water Utilities (3-Yr. Avg.)	\$314.15
Merritt Island (Staff Recommended)	\$280.62

Source: 2016-2018 Annual Reports and staff calculations.

²²Document No. 07318-2019, p. 35.

²³Staff did not include West Lakeland Wastewater, LLC since three years of annual reports were not available.

Based on staff's review, Merritt Island's proposed expense is 21.93 percent less than that of the sister utilities, and 10.67 percent less than that of the non-U.S. Water utilities.

Staff notes that the Commission has previously approved similar USWSC agreements and related costs in prior cases involving nine of Merritt Island's sister utilities during eleven rate case proceedings.²⁴ Two sister utilities, LP Waterworks, Inc. and Lakeside Waterworks, Inc., each had two SARCs in which this Commission reviewed and approved expenses related to USWSC management services contracts. In addition to this SARC, two additional sister utilities with similar contracts have SARCs pending at this time,²⁵ and a third has a file and suspend rate case pending.²⁶

Staff also believes that USWSC and its employees bring considerable management and operational experience and expertise at a comparably reasonable cost. As a result, staff believes that Merritt Island's customers are realizing operational and cost benefits that might not be realized if the Utility operated on a stand-alone basis. Staff notes that the Utility, through its contract with USWSC, has made significant plant improvements that should result in improved quality of service.

Based on the discussion above, staff believes Merritt Island's contractual services agreement with USWSC appears reasonable when compared to other utilities with similar agreements. The agreement also appears reasonable when compared to O&M expenses of industry peers as reflected in the AWWA Benchmark. Staff believes that Merritt Island's USWSC contract is appropriate, the adjusted cost is reasonable, and should be included in the Utility's proposed rates because it is known, measurable, and already in effect. Therefore, staff's recommendation for contractual services - other expense for the test year is \$47,211.

²⁴Order No. PSC-14-0413-PAA-WS, issued August 14, 2014, in Docket No. 130153-WS, *In re: Application for staff-assisted rate case in Highlands County, by L.P. Utilities Corporation c/o LP Waterworks, Inc.*; Order No. PSC-15-0013-PAA-WS, issued January 2, 2015, in Docket No. 130194-WS, *In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.*; Order No. PSC-15-0282-PAA-WS, issued July 8, 2015, in Docket No. 140158-WS, *In re: Application for increase in water/wastewater rates in Highlands County by HC Waterworks, Inc.*; Order No. PSC-15-0329-PAA-WU, issued August 14, 2015, in Docket No. 140186-WU, *In re: Application for staff-assisted rate case in Brevard County by Brevard Waterworks, Inc.*; Order No. PSC-15-0335-PAA-WS, issued August 20, 2015, in Docket No. 140147-WS, *In re: Application for staff-assisted rate case in Sumter County by Jumper Creek Utility Company.*; Order No. PSC-16-0256-PAA-WU, issued June 30, 2016, in Docket No. 150199-WU, *In re: Application for staff-assisted rate case in Lake County by Raintree Waterworks, Inc.*; Order No. PSC-16-0305-PAA-WU, issued July 28, 2016, in Docket No. 150236-WU, *In re: Application for staff-assisted rate case in Lake County, by Lake Idlewild Utility Company.*; Order No. PSC-2017-0334-PAA-WS, issued August 23, 2017, in Docket No. 20160222-WS, *In re: Application for staff-assisted rate case in Highlands County by LP Waterworks, Inc.*; Order No. PSC-2017-0428-PAA-WS, issued November 7, 2017, in Docket No. 20160195-WS, *In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.*; Order No. PSC-2018-0552-PAA-WU, issued November 19, 2018, in Docket No. 20180022-WU, *In re: Application for staff-assisted rate case in Lake County by Pine Harbour Waterworks, Inc.*; and Order No. PSC-2018-0553-PAA-WU, issued November 19, 2018, in Docket No. 20180021-WU, *In re: Application for staff-assisted rate case in Highlands County by Country Walk Utilities, Inc.*

²⁵Docket No. 20190114-WU, *In re: Application for staff-assisted rate case in Alachua County, and request for interim rate increase by Gator Waterworks, Inc.*; and Docket No. 20190125-WS, *In re: Application for staff-assisted rate case in Sumter County by The Woods Utility Company.*

²⁶Docket No. 20190166-WS, *In re: Application for increase in water rates in Highlands County by HC Waterworks, Inc.*

Insurance Expense (755)

The Utility recorded insurance expense of \$1,528 in the test year. Staff decreased this amount by \$204 based on supporting documentation provided by Merritt Island. Therefore, staff recommends insurance expense for the test year of \$1,324 (\$1,528 - \$204).

Regulatory Commission Expense (765)

The Utility did not record any regulatory commission expense in this account. Rule 25-30.433(9), F.A.C., requires that non-recurring expenses be amortized over a five-year period unless a shorter or longer period of time can be justified. Accordingly, staff increased this account by \$150 ($\$750 \div 5$) to reflect the five-year amortization of the 2017 certificate transfer application filing fee.²⁷

Regarding the instant case, the Utility is required by Rule 25-22.0407, F.A.C., to provide notices of the customer meeting and notices of final rates in this case to its customers. For noticing, staff estimated \$312 for postage expense, \$142 for printing expense, and \$28 for envelopes. This results in \$482 ($\$312 + \$142 + \28) for the noticing requirement. The Utility paid a \$1,000 rate case filing fee. The Utility requested travel and lodging expense of \$250 to attend the customer meeting and \$250 to attend the Commission Conference. Staff increased the Utility's customer meeting travel expense by \$183 to reflect mileage and actual lodging cost for two Utility employees to attend. This results in travel expense of \$433 ($\$250 + \183) for the customer meeting. Staff also reduced the cost of travel to attend the Commission Conference in order to reflect the actual cost of lodging for one employee and appropriate mileage.²⁸ Staff believes that the travel for the Commission Conference should be shared with Gator Waterworks, Inc. and The Woods Utility Company. The utilities are sister utilities of Merritt Island which have SARCs scheduled for the same Commission Conference. As such, staff believes it is appropriate to split travel costs to the Commission Conference equally between the three utilities, or \$130 ($\$389 \div 3$) per utility. This results in a reduction of \$120 ($\$130 - \250) for Merritt Island's travel expense to the Commission Conference. As such, staff recommends travel expense of \$563 ($\$433 + \130). Staff notes that the Commission previously approved rate case related travel expenses ranging from \$413 to \$1,570 in the nine most recent dockets for Merritt Island's sister utilities. Based on staff's review, the requested travel expense appears reasonable.

Based on the discussion above, staff recommends total rate case expense of \$2,046 ($\$482 + \$1,000 + \563), which amortized over four years is \$512. Staff's total adjustment to this account is an increase of \$662 ($\$150 + \512). As such, staff's recommendation for regulatory commission expense is \$662.

Miscellaneous Expense (775)

The Utility recorded miscellaneous expense of \$3,595. This account consists of billing fees, services performed on road repairs, transfer and permit fees, and Annual Report fees. Staff increased this account by \$46, to correct City of Cocoa billing charges which were originally recorded incorrectly. The Utility also requested that staff consider an increase in the monthly charges that Merritt Island incurs for the billing and collection of account receivables by City of

²⁷Docket No. 20170018-SU, *In re: Application to transfer wastewater system and Certificate No. 137-S in Brevard County from Colony Park Development Utilities, LLC to Merritt Island Utility Company, Inc.*

²⁸Document No. 00605-2020, filed January 28, 2020.

Cocoa. According to support documentation, the 1.79 percent increase went into effect on October 1, 2019.²⁹ Staff believes it is appropriate to include the increase, which equates to \$88 on a yearly basis, in the current proceeding because it is known, measurable, and already in effect.

The road repairs were related to pothole repairs resulting from a cracked sewer line on LaFitte Court. The repair totaled \$943, and was a one-time occurrence. The appropriate annual amortization amount and adjustment is shown in Table 7-3.

In addition, staff believes that several adjustments need to be made to several other transfer related expenses. The \$562 expense related to the legal ad for the certificate transfer, as well as a \$100 expense for a DEP fee related to the wastewater permit transfer, should be amortized over a five-year period because they are one-time occurrences. The appropriate annual amortization amounts and adjustments are shown in Table 7-3.

A second non-recurring expense item was incurred during the test year that was not included in O&M expenses. This \$7,800 expense was incurred in February 2019 for DEP-required pond cleaning for two of the Utility's three RIBs. The Utility classified the expense as Amortization Expense – Other, but staff believes the amount should be included in O&M expense and amortized over five years. The Utility also indicated that an additional \$5,050 will be needed to remove vegetation from the remaining RIB.³⁰ The RIB clearing is a DEP requirement as well. The amount should be amortized over five years. The appropriate annual amortization amounts for pond cleaning are shown in Table 7-3.

**Table 7-3
 Amortization of Misc. Expenses**

Description	Invoiced Amount	Annual Amortization*	Staff Adjustment
<u>Included in TY Misc. Expense:</u>			
Pothole Repair	\$943	\$189	(\$754)
Cert. Transfer Legal Ad	562	112	(450)
DEP Permit Transfer Fee	<u>100</u>	<u>20</u>	<u>(80)</u>
Total	<u>\$1,605</u>	<u>\$321</u>	<u>(\$1,284)</u>
<u>New Misc. Expense:</u>			
Completed RIB Clearing	\$7,800	\$1,560	\$1,560
Pro Forma RIB Clearing	<u>5,050</u>	<u>1,010</u>	<u>1,010</u>
Total	<u>\$12,850</u>	<u>\$2,570</u>	<u>\$2,570</u>
*Per Rule 25-30.433(9), F.A.C.			

Source: Audit Report, Utility filings, and staff calculations.

²⁹Document No. 04960-2019, filed on June 17, 2019.

³⁰Document No. 05392-2019, filed on July 9, 2019.

Based on the information above, staff is recommending an increase of \$1,420 (\$46 + \$88 - \$1,284 + \$2,570) to miscellaneous expense. As such, staff recommends miscellaneous expense of \$5,015 (\$3,595 + \$1,420).

Operation & Maintenance Expense Summary

Based on the above adjustments, staff recommends that O&M expense be increased by \$2,840, resulting in total O&M expense of \$73,241. Staff's recommended adjustments to O&M expense are shown on Schedule No. 3-C.

Depreciation Expense (Net of Amortization of CIAC)

Merritt Island recorded depreciation expense of \$6,274 during the test year. Staff calculated depreciation expense using the prescribed rates set forth in Rule 25-30.140, F.A.C., and determined test year depreciation expense to be \$7,000, resulting in an increase to this account of \$722. Staff also increased this account by \$182 to reflect the incremental increase in depreciation expense for the pro forma plant item previously discussed in Issue 4. Staff's total adjustment to depreciation expense is an increase of \$904 (\$722 + \$182). In addition, staff notes that CIAC is fully amortized and there is no amortization of CIAC. Therefore, staff recommends depreciation expense of \$7,178 (\$6,274 + \$904).

Amortization Expense – Other

The Utility recorded test year amortization expense – other of \$1,064 which included expenses for engineering services related to service territory maps and DEP-required pond cleaning during the test year. Staff believes that both items should be included in the Utility's O&M expense based on Commission practice. The engineering expense should be reclassified to contractual services – engineering (Account No. 731) and the pond clearing reclassified to miscellaneous expense (Account No. 775). Both expenses should be amortized over a five-year period. These adjustments were discussed in O&M expenses elsewhere in this issue. As such, staff decreased this account by \$1,089.

The Utility recorded amortization of an acquisition adjustment of negative \$25. In Docket No. 20170018-SU, the Commission determined that a negative acquisition adjustment of \$175 shall be recognized for ratemaking purposes.³¹ Based on the Commission's decision in that docket, the negative acquisition adjustment shall be amortized over a seven-year period from the date of issuance of the Commission order approving the transfer of assets. As such, the annual amortization of the negative acquisition adjustment is correctly reflected as negative \$25 (\$1,064 - \$1,089).

Taxes Other Than Income (TOTI)

Merritt Island recorded a TOTI balance of \$2,997 during the test year. Staff decreased the Regulatory Assessment Fees (RAFs) by \$106 to reflect the adjusted test year revenues. Staff increased this account by \$75 to reflect the incremental increase in property taxes associated with the pro forma project discussed in Issue 4. The Utility also requested consideration of pro forma

³¹Order No. PSC-2017-0366-PAA-SU, issued September 27, 2017, in Docket No. 20170018-SU, *In re: Application to transfer wastewater system and Certificate No. 137-S in Brevard County from Colony Park Development Utilities, LLC to Merritt Island Utility Company, Inc.*

taxes of \$2,652.³² Prior to this year, Merritt Island had no property taxes due. Staff increased tax expense by \$2,546 to reflect the appropriate amount of property tax going forward, based on the on the Utility's current Brevard County tax notice less a four percent discount for early payment.³³ This results in a net increase of \$2,515 (-\$106 + \$75 + \$2,546).

In addition, as discussed in Issue 8, revenues have been increased by \$33,567 to reflect the change in revenue required to cover expenses and allow the recommended operating margin. As a result, TOTI should be increased by \$1,511 to reflect RAFs of 4.5 percent on the change in revenues. Therefore, staff recommends TOTI of \$7,023.

Income Tax

The Utility is a Subchapter S Corporation and therefore did not record any income tax expense for the test year. Staff recommends no adjustment to income tax expense.

Operating Expenses Summary

The application of staff's recommended adjustments to Merritt Island's test year operating expenses results in operating expenses of \$87,417. Operating expenses are shown on Schedule No. 3-A. The related adjustments are shown on Schedule No. 3-B

³²Document No. 08301-2019, filed on August 21, 2019.

³³Document No. 00817-2020, filed on February 6, 2020.

Issue 8: What is the appropriate revenue requirement for Merritt Island?

Recommendation: The appropriate revenue requirement is \$99,225 resulting in an annual increase of \$33,567 (51.12 percent). (Wilson, T. Brown)

Staff Analysis: Merritt Island should be allowed an annual increase of \$33,567 (51.12 percent). This should allow the Utility the opportunity to recover its expenses and earn an 7.85 percent return on its investment. The calculations are shown in Table 8-1:

**Table 8-1
Revenue Requirement**

Adjusted Rate Base	\$150,423
Rate of Return (%)	x 7.85%
Return on Rate Base	\$11,808
Adjusted O&M Expense	73,241
Depreciation Expense (Net)	7,153
Taxes Other Than Income	7,023
Revenue Requirement	\$99,225
Less Adjusted Test Year Revenues	65,658
Annual Increase	<u>\$33,567</u>
Percent Increase	<u>51.12%</u>

Issue 9: What are the appropriate rate structure and rates for Merritt Island's wastewater system?

Recommendation: The recommended rate structure and monthly wastewater 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 sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of this notice. (Sibley)

Staff Analysis: Merritt Island is located in Brevard County. The Utility provides wastewater service to approximately 141 residential customers and one general service bulk customer. The general service customer is a mobile home park classified as a bulk customer. Currently, the residential wastewater rate structure consists of a uniform base facility charge (BFC) for all meter sizes and a gallonage charge with a 6,000 gallon cap per month. General service customers are billed a BFC by meter size and a gallonage charge that is 1.2 times higher than the residential gallonage charge. The bulk service customer is billed a BFC based on the number of ERCs behind the meter and a gallonage charge with a 6,000 gallon cap per connection.

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.

Consistent with Commission practice, staff allocated 50 percent of the wastewater revenue to the BFC due to the capital intensive nature of wastewater plants. In addition, it is also Commission practice to set the wastewater cap at approximately 80 percent of residential water gallons sold. The wastewater gallonage cap recognizes that not all water is returned to the wastewater system. Based on staff's review of the billing analysis, 87 percent of the gallons are captured at the 6,000 gallon consumption level. For this reason, staff recommends that the gallonage cap for residential customers remain at 6,000 gallons. Staff also recommends that the general service gallonage charge be 1.2 times greater than the residential gallonage charge, which is consistent with Commission practice. The bulk service customer's rate structure should remain a BFC based on the number of ERCs behind the meter and a gallonage charge with a 6,000 gallon cap per ERC.

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

Issue 10: What is the appropriate amount by which rates should be reduced four years after the published effective date to reflect the removal of the amortized rate case expense?

Recommendation: The 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 rate case expense recovery period, pursuant to Section 367.081(8), F.S. Merritt Island 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. (Procedural Agency Action) (Sibley, Wilson, T. Brown)

Staff Analysis: Section 367.081(8), F.S., requires that the rates be reduced immediately following the expiration of the recovery 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 and the gross-up for RAFs. The total reduction is \$536.

Staff recommends that the 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 rate case expense recovery period, pursuant to Section 367.081(8), F.S. Merritt Island 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 published effective date to reflect the removal of the amortized rate case expense.

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

Recommendation: Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the Utility on a temporary basis, subject to refund with interest, in the event of a protest filed by a party other than the Utility. Merritt Island 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. (Procedural Agency Action) (Wilson)

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

The Utility should be authorized to collect the temporary rates upon staff's approval of an appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$22,619. 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.
2. The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

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

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

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

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

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

Recommendation: Yes. Merritt Island should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. Merritt Island should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all applicable National Association of Regulatory Commissioners (NARUC) Uniform System of Accounts (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 providing good cause should be filed not less than seven days prior to the deadline. Staff should be given administrative authority to grant such an extension for up to 60 days. (Procedural Agency Action) (Wilson)

Staff Analysis: Merritt Island should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. Merritt Island 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 providing good cause should be filed not less than seven days prior to the deadline. Staff should be given administrative authority to grant such an extension for up to 60 days.

Issue 13: Should this docket be closed?

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

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 proposed agency action order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff. Once these actions are complete, this docket should be closed administratively.

MERRITT ISLAND UTILITY COMPANY, INC.		SCHEDULE NO. 1-A	
TEST YEAR ENDED 3/31/2019		DOCKET NO. 20190116-SU	
SCHEDULE OF WASTEWATER RATE BASE			
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUSTMENTS TO UTIL. BAL.	BALANCE PER STAFF
UTILITY PLANT IN SERVICE	\$266,370	\$5,813	\$272,183
LAND & LAND RIGHTS	30,479	0	30,479
NON-USED AND USEFUL COMPONENTS	0	0	0
ACCUMULATED DEPRECIATION	(161,473)	278	(161,195)
CIAC	(23,500)	0	(23,500)
AMORTIZATION OF CIAC	23,500	0	23,500
ACQUISITION ADJUSTMENT (AA)	(175)	0	(175)
AMORTIZATION OF AA	40	0	40
WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>9,091</u>	<u>9,091</u>
WASTEWATER RATE BASE	<u>\$135,241</u>	<u>\$15,182</u>	<u>\$150,423</u>

MERRITT ISLAND UTILITY COMPANY, INC.	SCHEDULE NO. 1-B
TEST YEAR ENDED 3/31/2019	DOCKET NO. 20190116-SU
ADJUSTMENTS TO RATE BASE	PAGE 1 OF 1
	<u>WASTEWATER</u>
<u>UTILITY PLANT IN SERVICE</u>	
To reflect pro forma plant addition (No retirement).	<u>\$5,813</u>
<u>ACCUMULATED DEPRECIATION</u>	
1. To reflect accumulated depreciation per Rule 25-30.140, F.A.C.	\$460
2. To reflect pro forma plant depreciation.	<u>(182)</u>
Total	<u>\$278</u>
<u>WORKING CAPITAL ALLOWANCE</u>	
To reflect 1/8 of test year O&M expenses.	<u>\$9,091</u>

MERRITT ISLAND UTILITY COMPANY, INC.							SCHEDULE NO. 2		
TEST YEAR ENDED 3/31/2019							DOCKET NO. 20190116-SU		
SCHEDULE OF CAPITAL STRUCTURE (YEAR END)									
CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUSTMENTS	TEST YEAR BALANCE PER STAFF	ADJUSTMENTS TO RECONCILE TO RATE BASE	RECONCILED CAPITAL STRUCTURE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST	
1. COMMON STOCK	\$0	\$0	\$0						
2. RETAINED EARNINGS	0	0	0						
3. OTHER PAID IN CAPITAL	150,000	0	150,000						
4. OTHER COMMON EQUITY	<u>0</u>	<u>0</u>	<u>0</u>						
TOTAL COMMON EQUITY	\$150,000	\$0	\$150,000	\$423	\$150,423	100.00%	7.85%	7.85%	
5. LONG-TERM DEBT	\$0	\$0	\$0	\$0	0	0.00%	0.00%	0.00%	
6. SHORT-TERM DEBT	0	0	0	<u>0</u>	0	0.00%	0.00%	0.00%	
7. PREFERRED STOCK	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>	
TOTAL DEBT	\$0	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%	
8. CUSTOMER DEPOSITS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	2.00%	<u>0.00%</u>	
9. TOTAL	<u>\$150,000</u>	<u>\$0</u>	<u>\$150,000</u>	<u>\$423</u>	<u>\$150,423</u>	<u>100.00%</u>		<u>7.85%</u>	
RANGE OF REASONABLENESS						LOW	HIGH		
RETURN ON EQUITY						<u>6.85%</u>	<u>8.85%</u>		
OVERALL RATE OF RETURN						<u>6.85%</u>	<u>8.85%</u>		

MERRITT ISLAND UTILITY COMPANY, INC.			SCHEDULE NO. 3-A		
TEST YEAR ENDED 3/31/2019			DOCKET NO. 20190116-SU		
SCHEDULE OF WASTEWATER OPERATING INCOME					
	TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$66,595</u>	<u>(\$937)</u>	<u>\$65,658</u>	<u>\$33,567</u> 51.12%	<u>\$99,225</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$70,401	\$2,840	\$73,241	\$0	\$73,241
3. DEPRECIATION	6,274	904	7,178	0	7,178
4. AMORTIZATION - OTHER	1,064	(1,089)	(25)	0	(25)
5. TAXES OTHER THAN INCOME	2,997	2,515	5,512	1,511	7,023
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$80,736</u>	<u>\$4,233</u>	<u>\$84,969</u>	<u>\$2,448</u>	<u>\$87,417</u>
8. OPERATING INCOME/(LOSS)	<u>(\$14,141)</u>		<u>(\$19,311)</u>		<u>\$11,808</u>
9. WASTEWATER RATE BASE	<u>\$135,241</u>		<u>\$150,423</u>		<u>\$150,423</u>
10. RATE OF RETURN	<u>(10.46%)</u>		<u>(12.84%)</u>		<u>7.85%</u>

MERRITT ISLAND UTILITY COMPANY, INC.		SCHEDULE NO. 3-B
TEST YEAR ENDED 3/31/2019		DOCKET NO. 20190116-SU
ADJUSTMENTS TO OPERATING INCOME		Page 1 of 2
		<u>WASTEWATER</u>
OPERATING REVENUES		
	To reflect the appropriate test year services revenues.	(\$937)
OPERATION AND MAINTENANCE EXPENSES		
1.	Purchased Power (715) To reflect 5 percent excessive I&I adjustment.	(\$288)
2.	Chemicals (718) To reflect 5 percent excessive I&I adjustment.	(\$121)
3.	Contractual Services – Engineering (731)	
	a. To reflect appropriate 5-year amortization of permit transfer work.	(\$960)
	b. To reflect appropriate 5-year amortization of service territory maps.	1,244
	Subtotal	<u>\$284</u>
4.	Contractual Services – Other (736) To reflect the new US Water contract amount.	<u>\$1,088</u>
5.	Insurance Expenses (755) To reflect actual insurance expense.	(\$204)
6.	Regulator Commission Expense (765)	
	a. To reflect 5-year amortization of filing fee from transfer docket (\$750 ÷ 5).	\$150
	b. Allowance for rate case expense amortized over 4 years (\$2,046 ÷ 4).	512
	Subtotal	<u>\$662</u>
7.	Miscellaneous Expense (775)	
	a. To reflect appropriate test year billing fees.	\$46
	b. To reflect pro forma adjustment to billing fees.	88
	c. To reflect expense that should be amortized over 5 years.	(1,284)
	d. To reflect appropriate amortization of FDEP-required pond clearing.	2,570
	Subtotal	<u>\$1,420</u>
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS		<u>\$2,840</u>
DEPRECIATION EXPENSE		
1.	To reflect appropriate test year depreciation expense.	\$722
2.	To reflect pro forma plant addition.	182
	Total	<u>\$904</u>

MERRITT ISLAND UTILTY COMPANY, INC.		SCHEDULE NO. 3-B
TEST YEAR ENDED 3/31/2019		DOCKET NO. 20190116-SU
ADJUSTMENTS TO OPERATING INCOME		Page 2 of 2
		<u>WASTEWATER</u>
AMORTIZATION - OTHER		
To reflect reclassification to O&M expense.		(<u>\$1,089</u>)
TAXES OTHER THAN INCOME		
1. To reflect appropriate test year RAFs.		(\$106)
2. To reflect property taxes associated with pro forma plant addition.		75
3. To reflect pro forma Brevard County tax increase.		<u>2,546</u>
Total		<u>\$2,515</u>
INCOME TAX		<u>\$0</u>

MERRITT ISLAND UTILITY COMPANY, INC.		SCHEDULE NO. 3-C	
TEST YEAR ENDED 3/31/2019		DOCKET NO. 20190116-SU	
ANALYSIS OF WASTEWATER OPERATION AND MAINTENANCE EXPENSE			
	TOTAL PER UTILITY	STAFF ADJUST- MENT	TOTAL PER STAFF
(703) SALARIES AND WAGES - OFFICERS	\$5,000	\$0	\$5,000
(711) SLUDGE REMOVAL	4,000	0	4,000
(715) PURCHASED POWER	5,764	(288)	5,476
(718) CHEMICALS	2,425	(121)	2,304
(731) CONTRACTUAL SERVICES - ENGINEERING	1,200	284	1,484
(732) CONTRACTUAL SERVICES - ACCOUNTING	400	0	400
(733) CONTRACTUAL SERVICES - LEGAL	366	0	366
(736) CONTRACTUAL SERVICES - OTHER	46,123	1,088	47,211
(755) INSURANCE EXPENSE	1,528	(204)	1,324
(765) REGULATORY COMMISSION EXPENSE	0	662	662
(775) MISCELLANEOUS EXPENSE	<u>3,595</u>	<u>1,420</u>	<u>5,015</u>
	<u>\$70,401</u>	<u>\$2,840</u>	<u>\$73,241</u>

MERRITT ISLAND UTILITY COMPANY, INC.		SCHEDULE NO. 4		
TEST YEAR ENDED MARCH 31, 2019		DOCKET NO. 20190116-SU		
MONTHLY WASTEWATER RATES				
	PRIOR RATES	COMMISSION APPROVED INTERIM RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential and General Service</u>				
Base Facility Charge by Meter Size				
5/8"X3/4"	\$11.15	\$11.50	\$16.17	\$0.09
3/4"	\$16.73	\$17.25	\$24.26	\$0.13
1"	\$27.88	\$28.75	\$40.43	\$0.22
1-1/2"	\$55.75	\$57.50	\$80.85	\$0.44
2"	\$89.20	\$92.00	\$129.36	\$0.70
3"	\$178.40	\$184.00	\$258.72	\$1.40
4"	\$278.75	\$287.50	\$404.25	\$2.18
6"	\$557.50	\$575.00	\$808.50	\$4.37
Charge per 1,000 gallons - Residential				
All Meter Sizes	\$2.97	\$3.07	\$4.69	\$0.03
6,000 gallon cap				
Charge per 1,000 gallons - General Service				
	\$3.57	\$3.68	\$5.63	\$0.03
<u>Bulk Service</u>				
Base Facility Charge - All Meter Sizes (120 ERCs)	\$1,338.00	\$1,380.00	\$1,940.40	\$10.48
Charge per 1,000 gallons - Bulk Service	\$3.57	\$3.68	\$5.63	\$0.03
720,000 gallon cap				
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>				
3,000 Gallons	\$20.06	\$20.71	\$30.24	
6,000 Gallons	\$28.97	\$29.92	\$44.31	
10,000 Gallons	\$28.97	\$29.92	\$44.31	

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: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Hightower, D. Buys, Cicchetti, Richards)
Division of Economics (Bethea, Hudson) *SHTR*
Division of Engineering (Ellis, D. Phillips, Thompson) *POE*
Office of the General Counsel (Weisenfeld) *ayw c - RALPH*

RE: Docket No. 20190125-WS – Application for staff-assisted rate case in Sumter County by The Woods Utility Company. *MC CBR ALM EJD*

AGENDA: 03/03/20 – Regular Agenda – Proposed Agency Action Except for Issue Nos. 11, 12 and 13 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: 11/05/2020 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS:

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Case Background

The Woods Utility Company (The Woods or Utility) is a Class C utility serving approximately 58 residential water customers, 1 general service water customer, and 52 residential wastewater customers in Sumter County. The service area is located in the Southwest Florida Water Management District (SWFWMD), which has implemented year-round conservation measures. According to the Utility's 2018 Annual Report, total gross revenues were \$37,354 and total operating expenses were \$50,491, resulting in a net operating loss of \$13,137. On June 6, 2019, The Woods filed an application for a rate increase in water and wastewater rates.

Gary Deremer, majority owner, purchased The Woods from Aqua Utilities Florida, Inc. (AUF) in March 2013. The transfer was approved by the Florida Public Service Commission (Commission) in Order No. PSC-2014-0300-PAA-WS.¹ The rate base was last established in that Order.

The Utility filed an application for a Staff-Assisted Rate Case (SARC) on September 21, 2015, in Docket No. 20150209-WS. The SARC application was withdrawn on February 24, 2016.² An audit was completed for the 12 months ended July 31, 2015, but rate base was not established.³ The Woods was previously grouped in a "Rate Band" under the prior owner, AUF, in a Commission-approved rate structure. The Woods no longer receives grouping subsidies or benefits resulting from the "Rate Band" rate structure.

At the time of filing its application, The Woods was under a Consent Order (DEP OGC File No.: 17-1067) with the Florida Department of Environmental Protection (DEP). The Utility has since completed work on a water treatment plant rehabilitation and filter retrofit. The Utility is requesting a rate increase primarily to recover the costs incurred to install the DEP required filter retrofit and water treatment plant improvements.

Staff conducted a customer meeting on December 18, 2019. One general service customer spoke at the meeting.

On January 27, 2020, The Woods withdrew its request for the wastewater portion of its SARC.⁴

The Commission has jurisdiction in this case pursuant to Sections 367.011, 367.081, 367.0812, 367.0814, 367.091, and 367.121, Florida Statutes (F.S.).

¹Order No. PSC-2014-0300-PAA-WS, issued June 11, 2014, in Docket No. 20130171-WS, *In re: Application for approval of transfer of certain water and wastewater facilities and Certificate Nos. 507-W and 441-S of Aqua Utilities Florida, Inc. to The Woods Utility Company in Sumter County.*

²Document No. 01005-2016, filed February 24, 2016, in Docket No. 20150209-WS, *In re: Application for staff-assisted rate case in Sumter County by The Woods Utility Company.*

³Document No. 00709-2016, filed February 4, 2016, in Docket No. 20150209-WS, *In re: Application for staff-assisted rate case in Sumter County by The Woods Utility Company.*

⁴Document No. 00561-2020, filed January 27, 2020, in Docket No. 20190125-WS, *In re: Application for staff-assisted rate case in Sumter County by The Woods Utility Company.*

Discussion of Issues

Issue 1: Is the quality of service provided by The Woods Utility Company satisfactory?

Recommendation: No. The DEP has mandated that the Utility take action to address lead and copper exceedances. Therefore, staff recommends that the quality of product is unsatisfactory. However, the Utility has been responsive to customer complaints and is working with the DEP to address product concerns; therefore, no penalty is recommended. The Utility should file status reports on the actions it has taken to meet the DEP's requirements. Staff recommends the first status report be filed six months after the Final Order is issued in this Docket and every six months thereafter until the additional monitoring is rescinded by the DEP. (D. Phillips)

Staff Analysis: Pursuant to Section 367.081(2)(a)1, F.S., and 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 the utility. This determination is made from an evaluation of the quality of the utility's product and the utility's attempt to address customer satisfaction. The Rule further states that the most recent chemical analyses, outstanding citations, violations, and consent orders on file with the DEP and the county health department, and any DEP and county health department officials' testimony concerning quality of service, shall be considered. In addition, any customer testimony, comments, or complaints received by the Commission are also reviewed.

Quality of the Utility's Product

In evaluation of The Woods' product quality, staff reviewed the Utility's compliance with the DEP primary and secondary drinking water standards. Primary standards protect public health while secondary standards regulate contaminants that may impact the taste, odor, and color of drinking water. In November 2017, The Woods Utility entered into a Consent Order with the DEP regarding high levels of disinfection byproducts (DBPs). The DBPs were a result of the Utility using free chlorine to oxidize high levels of iron in the raw water source. The DBP issue originally surfaced in 2007, while the Utility was operated by its previous owners. In order to comply with the DEP Consent Order, the Utility replaced and updated the filtration system to remove the iron from the raw water before distribution. The Utility has also added auto-flushers throughout the distribution system and periodically flushes the system to remove residual iron. The Utility received final clearance from DEP regarding the Consent Order on February 7, 2019. The most recent water samples for secondary standards were taken on February 8, 2018, at which point all secondary standards were met by the Utility.

On January 6, 2020, the Utility was notified by DEP that tap water samples, taken from customers' premises, exceeded the allowable lead action level twice in 2019. In the first half of 2019, three samples exceeded lead levels, and in the second half of 2019, six samples exceeded lead levels and three exceeded copper levels. As a result, the DEP has mandated that additional actions are required to address lead and copper levels. First, the Utility must notify its customers of the 2019 test results by March 31, 2020. Second, the Utility must conduct Water Quality Parameter tests for four consecutive quarters at the point of entry to the distribution system to be completed before December 31, 2020. Third, the Utility is required to complete an optimal corrosion control study to evaluate effectiveness of treatments by June 30, 2021. Finally, the Utility must conduct bi-annual lead and copper sampling tests until the system meets required

levels during two consecutive six-month periods. The first sample must be tested between January and June of 2020.

The Utility's Attempt to Address Customer Satisfaction

Staff reviewed the complaints filed in the Commission's Consumer Activity Tracking System (CATS), filed with the DEP, and received by the Utility from April 1, 2014, through March 31, 2019. Staff also performed a review of complaints filed in CATS following the December 18, 2019, customer meeting. Through mid-February 2020, Table 1-1 shows the number of complaints categorized by complaint type and source. A customer complaint may fit into multiple categories and counted multiple times.

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

Subject of Complaint	CATS Records	DEP Records	Utility Records	Total
Improper Bills	8		4	12
Rate Increase	1			1
Outages	1		2	3
Water Quality	5	2	11	18
Total*	15	2	17	34

*A single customer complaint may be counted multiple times if it fits into multiple categories, was reported to multiple agencies, or was reported multiple times.

The CATS recorded a total of ten complaints during the years reviewed, the most recent from January 2020. Six complaints were related to improper billing and five were related to quality of service, with all complaints resolved in a timely manner. CATS also recorded one complaint filed in September 2017 regarding a water outage after Hurricane Irma. The Utility confirmed that due to leaks the water pressure would not rise above 15 pounds per square inch (psi). The leaks were located and repaired in late September 2017 and water pressure returned to normal. The DEP received two complaints, one in 2018 the other in 2019, both regarding water quality. The Utility addressed the two complaints to the DEP's satisfaction and the complaints were closed. The Utility received thirteen complaints during the past five years. Eleven were related to water quality, two related to water outages, and four related to billing credit inquiries which were resolved by the Utility.

A customer meeting was held on December 18, 2019. One customer was in attendance that had a surrogate provide oral comments. All of the attendees present were from the Utility's sole general service customer, Snooze N Scoot, an RV park. At the meeting, the general service customer cited discolored water, low and fluctuating water pressure, and water outages as the main issues. Each of these issues is discussed further below.

Discolored water is present in the Utility's distribution system, and the general service customer provided examples including water samples and personal water filters. The Utility notes that the water issues have existed since the previous owner and mainly results from the natural iron

present in the raw water source. As discussed above, the Utility modified its water filtration system in March 2018, to comply with the DEP Consent Order. After the filtration system was replaced, the water leaving the treatment plant was clear, odorless, and free of iron; excluding periods of mechanical issues that were resolved by the Utility promptly. However, the Utility further stated that iron residuals have accumulated throughout the distribution system as well as in customer's homes and water heaters. To help resolve the issue, the Utility has installed several auto flushers to improve water quality and has been adjusting flushing settings. The Woods received clearance from DEP to begin using an orthophosphate blend to help isolate the iron residuals and coat the pipes, and began the treatment on August 16, 2019. The combination of flushing the system and the orthophosphate treatment should improve the water quality; however, the improvements will take time and be an ongoing process. While a complete replacement of the distribution system would eliminate this concern, a replacement is not economical without government assistance. The Woods intends to work with DEP and the Florida Rural Water Association to explore possible government assisted funding.

The fluctuating and low water pressure is a result of the periodic flushes mentioned above as well as the location of the general service customer near the end of the distribution system. According to the Utility, when the system is being flushed, a large amount of water is exiting the system causing a drop in pressure throughout the system. Additionally, the water must travel the distance from the treatment plant to the general service customer at the end of the line, which causes a large amount of head loss through the pipe. The Utility has added an additional pump to help maintain water pressure, but indicated the system is only supported by one well which limits the amount of water available at any given time. The Utility stated that the general service customer has a backflow prevention device and a filtration system installed that may cause a further reduction in water pressure. The Utility is aware of the pressure differential and takes this into consideration in planning and operation. For example, during one low pressure event, the water pressure leaving the plant was approximately 28 psi, which is above the 20 psi required by the DEP, but the Utility issued a boil water notice to its customers since it was a drastic reduction from the normal pressure of approximately 56 psi. The Utility will continue to evaluate how flushing is scheduled to help reduce the pressure loss.

Outages were also a concern identified at the customer meeting. A significant outage was reported due to Hurricane Irma. The hurricane caused damage to the distribution system creating a leak which took time for the Utility to locate and repair. Other outages have been due to mechanical problems with the facility that were resolved in a timely manner. The Utility issued two boil water notices during the test year and issued two additional notices after the end of the test year.

Conclusion

The DEP has mandated that the Utility take action to address lead and copper exceedances. Therefore, the quality of product is unsatisfactory. However, the Utility has been responsive to customer complaints and is working with the DEP to address product concerns; therefore, no penalty is recommended. The Utility should file status reports on the actions it has taken to meet the DEP's requirements. Staff recommends the first status report be filed six months after the Final Order is issued in this Docket and every six months thereafter until the additional monitoring is rescinded by the DEP.

Issue 2: Are the infrastructure and operating conditions of The Woods Utility Company's water system in compliance with DEP regulations?

Recommendation: Yes. The Woods' water treatment facility is currently in compliance with DEP regulations. (Thompson)

Staff Analysis: Rule 25-30.225(2), F.A.C., requires each water utility to maintain and operate its plant and facilities by employing qualified operators in accordance with the rules of the DEP. Rule 25-30.433(2), F.A.C., requires consideration of whether the infrastructure and operating conditions of the plant and facilities are in compliance with Rule 25-30.225, F.A.C. In making this determination, the Commission must consider testimony of the DEP and county health department officials, sanitary surveys, citations, violations, and consent orders issued to the utility, customer testimony, comments, and complaints, and utility testimony and responses to the aforementioned items.

Water System Operating Conditions

The Woods' water system has a permitted design capacity of 63,500 gallons per day (gpd). The Utility's water system has one well with a pumping capacity of 100 gallons per minute, a hydro-pneumatic storage tank with a 2,500 gallon capacity, and a ground storage tank with a 5,000 gallon capacity. As discussed in Issue 1, The Woods recently upgraded its filtration system to address the exceedances noted in the DEP Consent Order.⁵ Based on the case closure letter from the DEP dated June, 14, 2019, the Utility has addressed the requirements of the Consent Order to the DEP's satisfaction, and the case has been closed. Staff reviewed The Woods' sanitary surveys conducted by the DEP to determine the Utility's overall water facility compliance. A review of the inspection conducted on July 25, 2019, indicated that The Woods' water treatment facility was in compliance with the DEP's rules and regulations.

Conclusion

The Woods' water treatment facility is currently in compliance with DEP regulations.

⁵Document No. 04753-2019, filed June 6, 2019, in Docket No. 20190125-WS, *In re: Application for staff-assisted rate case in Sumter County by The Woods Utility Company*.

Issue 3: What are the used and useful (U&U) percentages of The Woods Utility Company's water treatment plant (WTP), storage, and water distribution system?

Recommendation: The Woods' WTP and water storage should be considered 100 percent U&U. The Utility's water distribution system should be considered 76 percent U&U. Additionally, staff recommends no adjustment to purchased power and chemical expenses be made for excessive unaccounted for water (EUW). (Thompson)

Staff Analysis: The Woods' water system began operations in 1988. As stated in Issue 2, the Utility's water system has one well with a pumping capacity of 100 gallons per minute, a hydro-pneumatic storage tank with a 2,500 gallon capacity, and a ground storage tank with a 5,000 gallon capacity. The Woods' water distribution system is composed of over 8,000 feet of polyvinyl chloride pipe of various diameters.

Used and Useful Percentages

Rule 25-30.4325, F.A.C., addresses the method by which the U&U of a water system is determined. The Woods' U&U percentages were last determined in Docket No. 20100330-WS.⁶ In that docket, the Commission determined the Utility's WTP and water storage to be 100 percent U&U. The Utility's water distribution system was determined to be 76 percent U&U. The Utility has not increased the capacity of its WTP, nor has the Utility increased its water storage capacity since rates were last established. The Woods' water service area has had a decrease in average growth for the past five years, and the Utility has not expanded its territory. Therefore, consistent with the Commission's previous decision, staff recommends the Utility's WTP and water storage be considered 100 percent U&U, and the Utility's water distribution system be considered 76 percent U&U.

Excessive Unaccounted for Water

Rule 25-30.4325, F.A.C., additionally provides factors to be considered in determining whether adjustments to operating expenses are necessary for EUW. EUW is defined as "unaccounted for water in excess of 10 percent of the amount produced." Unaccounted for water is all water produced that is not sold, metered, or accounted for in the records of the Utility.

EUW is calculated by subtracting both the gallons sold to customers and the gallons used for other services, such as flushing, from the total gallons pumped for the test year. Based on monthly operating reports, the audit completed by staff, and Utility documentation, staff recommends no adjustments should be made to purchased power and chemicals.

Conclusion

The Woods' WTP and water storage should be considered 100 percent U&U. The Utility's water distribution system should be considered 76 percent U&U. Additionally; staff recommends no adjustment to purchased power and chemical expenses be made for EUW.

⁶Order No. PSC-2012-0102-FOF-WS, issued March 5, 2012, in Docket No. 20100330-WS, *In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.*

Issue 4: What is the appropriate average test year rate base for The Woods Utility Company?

Recommendation: The appropriate average test year rate base is \$165,678. (Hightower, Thompson)

Staff Analysis: The appropriate components of the Utility’s rate base include utility plant in service (UPIS), land & land rights, accumulated depreciation, contribution-in-aid-of-construction (CIAC), accumulated amortization of CIAC, a negative acquisition adjustment, and working capital. The last full rate preceding that established balances for rate base for The Woods was Docket No. 20100330-WS.⁷ Commission audit staff determined that the Utility’s books and records are in compliance with the National Association of Regulatory Utility Commissioners’ Uniform System of Accounts (NARUC USOA). The Utility recorded a rate base of \$135,627. Staff recommends an increase of \$30,051 to rate base. A summary of each component and the recommended adjustments follows.

Utility Plant In Service (UPIS)

The Utility recorded \$531,469 in UPIS. Staff identified several adjustments resulting in a net increase to UPIS of \$45,760. First, staff decreased UPIS by \$9,238 to reflect an averaging adjustment. Staff reduced UPIS by \$13,778 to reflect non-used and useful adjustments. Staff made an adjustment increasing UPIS by \$68,776 (\$68,187 + \$2,357 - \$1,768) to reflect the addition of the new water filtration system required by DEP consent order and one pro forma plant addition net of retirements. Therefore, staff recommends an average UPIS balance of \$577,229 (\$531,469 - \$9,238 - \$13,778 + \$68,776).

Pro Forma Plant Additions

Table 4-1 shows The Woods’ requested pro forma plant addition. As is Commission practice, staff requested that three bids be provided for the pro forma addition. According to the Utility, the pro forma addition was related to the project completed to comply with the DEP Consent Order. Therefore, the same vendor that completed those upgrades completed this project as well. The Utility stated that it did not request bid proposals for upgrades completed related to the DEP Consent Order as it was highly specialized work completed under its operation and maintenance contract with U.S. Water Services Corporation. As this project was completed in relation to the DEP Consent Order, staff recommends that the project cost is appropriate.

**Table 4-1
 Pro-Forma Plant Items**

Project	Acct. No.	Description	Amount
Power Pole Replacement	304	New power pole and control panel install at the water treatment plant	\$2,357
Power Pole Replacement	304	Retirement	(\$1,768)

Source: Responses to staff data requests.

⁷Docket No. 20100330-WS, *In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.*

Land & Land Rights

The Utility recorded a test year land value of \$3,500. Staff made no adjustments to this account.

Used and Useful

As discussed in Issue 3, during the prior rate case, the Utility's water distribution system was determined to be 76 percent U&U. The water service territory has not had any increase in average growth for the past five years. As discussed previously, staff reduced UPIS by \$13,778 to reflect non-used and useful adjustments.

Accumulated Depreciation

The Utility recorded an accumulated depreciation balance of \$280,548. Staff calculated accumulated depreciation to be \$268,994, resulting in a decrease of \$11,554. Staff decreased accumulated depreciation by \$1,096 per the audit report recalculation. Staff made an adjustment of \$2,726 to decrease accumulated depreciation to reflect the non-used and useful portions of UPIS. Staff also made an averaging adjustment to accumulated depreciation that resulted in a decrease of \$9,997. Further, staff made corresponding adjustments to accumulated depreciation based on the pro forma plant additions and retirements resulting in an increase of \$2,265. Accordingly, staff recommends adjustments that result in an accumulated depreciation balance of \$268,994 ($\$280,548 - \$1,096 - \$2,726 + - \$9,997 + \$2,265$).

Contributions in Aid of Construction (CIAC)

The Utility recorded a CIAC balance of \$92,939. Staff made an adjustment of \$2,167 to reflect a reduction of the non-used & useful portions of CIAC. Therefore, staff recommends a CIAC balance of \$90,772 ($\$92,939 - \$2,167$).

Accumulated Amortization of CIAC

The Utility recorded accumulated amortization of CIAC of \$90,784. Staff recalculated accumulated amortization to include a decrease of \$16 per the audit. Staff made corresponding adjustments to reflect the non-used & useful portion which resulted in a decrease of \$2,116. Staff also made an adjustment to reflect an averaging adjustment creating a decrease of \$48. Therefore, staff recommends an accumulated amortization of CIAC balance of \$88,604 ($\$90,784 - \$16 - \$2,116 - \48).

Acquisition Adjustment

The Utility recorded a negative acquisition adjustment of \$259,183 based on Order No. PSC-2014-0300-PAA-WS.⁸ Staff made an adjustment of \$6,042 to reflect a non-used and useful portion of the acquisition adjustment resulting in an adjusted balance of negative \$253,141 ($-\$259,183 + \$6,042$).

Accumulated Amortization of Acquisition Adjustment

The Utility recorded an accumulated amortization of the acquisition adjustment of \$142,544. Staff calculated the accumulated amortization of the acquisition adjustment in accordance with Rule 25-30.0371(4)(b)2, F.A.C., and recommends that the related test year amortization should

⁸Order No. PSC-2014-0300-PAA-WS, issued June 11, 2014, in Docket No. 20130171-WS, *In re: Application for approval of transfer of certain water and wastewater facilities and Certificate Nos. 507-W and 441-S of Aqua Utilities Florida, Inc. to The Woods Utility Company in Sumter County.*

be reduced by \$21,746. Staff calculated a simple average adjustment of negative \$12,497. Staff reduced the balance by \$2,816 to reflect the non-used and useful portion of the acquisition adjustment. Therefore, staff recommends an accumulated amortization of the acquisition adjustment of \$105,485 ($\$142,544 - \$21,746 - \$12,497 - \$2,816$).

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(3), F.A.C., staff used the one-eighth of the operation and maintenance (O&M) expense formula approach for calculating the working capital allowance. Section 367.081(9), F.S., prohibits a utility from earning a return on the unamortized balance of rate case expense. As such, staff removed the rate case expense balance of \$216 for this calculation resulting in an adjusted O&M expense balance of \$30,134 ($\$30,350 - \216). Applying this formula approach to the adjusted O&M expense balance, staff recommends a working capital allowance of \$3,767 ($\$30,134 \div 8$).

Rate Base Summary

Based on the foregoing, staff recommends an average test year rate base is \$165,678. Rate base is shown on Schedule No. 1-A, and the related adjustments are shown on Schedule No. 1-B.

Issue 5: What is the appropriate return on equity and overall rate of return for The Woods Utility Company?

Recommendation: The appropriate return on equity (ROE) is 7.85 percent with a range of 6.85 percent to 8.85 percent. The appropriate overall rate of return is 7.57 percent. (Hightower)

Staff Analysis: According to staff's audit, The Woods' test year capital structure consisted of 100 percent common equity. The Utility's capital structure for the test year ended March 31, 2019, has an equity balance of \$275,788 with \$7,817 in customer deposits.

The Utility's proposed capital structure has been reconciled with staff's recommended rate base. The appropriate ROE for the Utility is 7.85 percent based upon the Commission-approved leverage formula currently in effect.⁹ Staff recommends an ROE of 7.85 percent, with a range of 6.85 percent to 8.85 percent, and an overall rate of return of 7.57 percent. The ROE and overall rate of return are shown on Schedule No. 2.

⁹Order No. PSC-2019-0267-PAA-WS, issued July 1, 2019, in Docket No. 20190006-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 6: What are the appropriate amounts of test year revenues for The Woods utility Company's water system?

Recommendation: The appropriate test year revenues for The Woods' water system is \$41,373. (Bethea)

Staff Analysis: The Woods recorded total test year revenues of \$39,229. The revenues included \$32,868 of service revenues and \$6,361 of miscellaneous revenues. The Utility had a rate increase during the test year as well as subsequent to the test year as a result of price index and pass through adjustments.¹⁰ In addition, a general service customer was incorrectly billed for usage during the test year.¹¹ Staff annualized service revenues to reflect those changes in rates, resulting in an increase of \$1,464. In addition, a general service customer was incorrectly billed for usage during the test year. Staff imputed the additional gallons for the Utility's billing determinants, resulting in an increase of \$3,531. This results in an increase of \$4,995 (\$1,464 + \$3,531) to reflect annualized test year service revenues. Based on the appropriate billing determinants and the rates that were in effect subsequent to the test year, staff determined service revenues to be \$37,863 (\$32,868 + \$4,995) for water.

Staff also made adjustments to miscellaneous revenues for water. Based on the number of occurrences and the Commission-approved miscellaneous service charges, miscellaneous revenues should be increased by \$20 to \$6,381 (\$6,361 + \$20). The Utility recorded all miscellaneous revenues to its water system. When a Utility has both water and wastewater services, only a single miscellaneous service charge is appropriate for a customer with both services. Therefore, consistent with Commission practice, staff allocated a portion of the miscellaneous revenues based on the number of equivalent residential connections. This results in \$3,510 (\$6,381 x 55%) of miscellaneous revenues for the water system. As such, \$2,871 (\$6,381 - \$3,510) should be removed from water and allocated to wastewater. Based on the adjustments above, the appropriate test year revenues for The Woods' water system is \$41,373 (\$39,229 + \$4,995 + \$20 - \$2,871).

¹⁰ The utility filed a 2019 Index that became effective on June 17, 2019.

¹¹ The general service customer was not being billed for all the water usage due to an error in the billing system.

Issue 7: What is the appropriate amount of operating expenses for The Woods Utility Company?

Recommendation: The appropriate amount of operating expenses is \$36,631. (Hightower)

Staff Analysis: The Woods recorded operating expenses of \$32,886 for the test year ended March 31, 2019. The test year operation and maintenance expenses have been reviewed, including invoices, canceled checks, and other supporting documentation. Staff has made several adjustments to the Utility's operating expenses as summarized below.

Operation & Maintenance Expense

Salaries and Wages - Officers and Directors (603)

The Utility recorded salaries and wages – officers and directors expense of \$3,150 in the test year to reflect the president's monthly salary of \$263. According to the Utility's 2018 Annual Report, The Woods' officers also include an accounting manager who does not receive a salary included in this amount. In addition, the Utility indicated in audit work papers that the president only receives compensation through distribution of retained earnings if there are any net operating profits from operations that are not used for continuing operations or capital improvements. As such, staff's recommends a salaries and wages - officer's expense for the test year of \$3,150.

Purchased Power (615)

The Utility recorded purchased power expense of \$1,581 in the test year. Supporting documentation confirming the purchased power expense was provided. Staff made no adjustments to this account. As such, staff recommends a purchased power expense for the test year of \$1,581.

Chemicals (618)

The Utility recorded chemicals expense of \$1,864 for the test year. Staff determines that no adjustments were necessary. Therefore, staff recommends a chemicals expense of \$1,864.

Contractual Services – Accounting (632)

The Utility recorded accounting expenses of \$400 for the test year ended March 31, 2019. Staff reallocated 50 percent of the accounting fees from water to the wastewater system. Staff reallocated 50 percent of the professional fee from miscellaneous expense to these accounts. The total invoice for the preparation of the annual report to the State of Florida is \$150 to be allocated equally to water and wastewater. Therefore, staff recommends contractual services – accounting expenses of \$275 ($\$400 - \$200 + \75).

Contractual Services – Legal (633)

The Utility recorded contractual services - legal expense of \$150 in the test year. Supporting documentation confirming the legal expense was provided. Staff made no adjustments to this account. As such, staff recommends a contractual services - legal expense for the test year of \$150.

Contractual Services – Testing (635)

The Utility recorded a \$94 contractual services – testing expense. The Utility stated the expenses were attributed to a boil water clearance for a pre-planned outage to install filters on January 16, 2019, for regulatory sampling not covered by the U.S. Water contract. The Utility provided an invoice and staff made no adjustments. Staff recommends a contractual service – testing expense of \$94.

Contractual Services - Other Expense (636)

During the test year, the Utility recorded contractual services - other expense of \$18,560. The Woods receives all of its operational and administrative services under a contract with an affiliated company, U.S. Water Services Corporation (USWSC or U.S. Water). Pursuant to the contract, The Woods employed the services of USWSC to perform various functions: administrative management, operations, maintenance, and billing/collection for the Utility.

The current USWSC contract dated March 29, 2013, and has not been revised since The Woods acquisition (transfer) from AUF. The contract expense has increased from \$17,339 to \$18,560, which equates to a 7.04 percent increase over seven years. This is below the compounded annual Commission approved index increases of 12.11 percent over the same period. However, due to the extremely small number of customers (59 ERCs) served by this Utility, the cost of the USWSC contract for The Woods equates to \$489.52 per ERC.

Because the contract has not been revised since 2013, the costs associated with the Administrative portion of the contract (which covers accounting and utility oversight, including office space and equipment) are lower than the actual costs. This is the case because the contract includes allocations for 1,000 additional ERCs for potential future USWSC acquisitions which have been eliminated in USWSC contracts on a prospective basis. Additionally, only two employees (a Utilities manager and an Accountant) have been included in Administrative Services in the existing USWSC contract with The Woods. The Utility's supplemental filing indicated, "if the actual costs were recovered through the actual number of ERCs, the amount per ERC would be higher."¹²

Despite the higher ERC cost, staff believes The Woods' contractual services agreement with USWSC is reasonable and beneficial to the Utility. Through its contract with USWSC, the Utility asserted that it made significant plant improvements which have resulted in improved quality of service.¹³ Staff believes that USWSC and its employees bring considerable management and operational experience at a comparably reasonable cost. As a result, staff believes that the utility's customers are experiencing operational benefits that might not be realized if The Woods operated on a stand-alone basis. As the Utility noted in its supplemental filing, O&M expenses would be incurred regardless of the size of the customer base. When comparing O&M costs on a per ERC basis, the results seemingly reflect poorly on The Woods, which is due to the extremely small customer base (58 residential and 1 general service customer) in which the costs to provide service must be spread across. In its filing, The Woods asserted that if it was required to establish a stand-alone utility with personnel for maintenance,

¹²Document No. 07319-2019, filed on August 9, 2019, in Docket No. 20190125-WS, at pg. 7.

¹³Document No. 07319-2019, filed on August 9, 2019, in Docket No. 20190125-WS, at pg. 1.

customer service, accounting, regulatory compliance, etc., the cost would exceed that of the current USWSC contract. For example, it would be highly impractical to assume that all of these operational, administrative, and managerial services could be preformed by a single individual for only \$18,560 a year. By virtue of the USWSC contract, the customers of The Woods benefit from the services of multiple qualified employees on a fractional basis. On a stand alone basis, it is not possible to employ fractional positions.

On August 9, 2019, The Woods submitted documentation containing additional information related to its outside contractual services agreement with USWSC.¹⁴ According to the Utility, USWSC currently operates in 60 of Florida's 67 counties, provides service to over 1,000 utility systems, and services to over 1,000,000 customers daily. USWSC's president and majority shareholder has been in the water utility management and operations industry for over 30 years. The Woods contracts with USWSC for the following services:

1. Water and Wastewater Operations
2. Meter Reading
3. System Maintenance and Repairs
4. Billing and Collections
5. Customer Service
6. Regulatory Affairs
7. Testing
8. Accounting
9. Office Space and Equipment

According to the Utility, each of the service contracts that USWSC enters into with a utility "are different and are priced differently depending on numerous factors."¹⁵ These factors include the number of employees needed and the number of hours required per system for successful operation. Additional considerations include whether USWSC provides chemicals, power, offices, vehicles, etc., or if these items are provided by the utility.

Staff notes that similar relationships currently exist for three other regulated utilities in Marion County; Tradewinds Utilities, Inc. (Tradewinds),¹⁶ C.F.A.T. H2O, Inc. (CFAT), and BFF Corp. (BFF). All of the utilities have contractual service agreements with MIRA International, Inc. (MIRA). Their respective agreements cover similar services to those included in the agreement between The Woods and USWSC. In addition to a relationship established by their contractual service agreements, the same individuals own the three utilities listed above and MIRA. As such, the relationship is similar to that of The Woods and USWSC.

As detailed in Table 7-1 below, based on the three most recent Annual Reports, CFAT has an average water operation and maintenance (O&M) expense of \$267.92 per Equivalent Residential Connection (ERC), and Tradewinds has an average water O&M expense of \$215.60 per ERC. BFF is a wastewater only utility, and is not included in staff's comparison below.

¹⁴Document No. 07319-2019, filed August 9, 2019, in Docket No. 20190125-WS.

¹⁵Document No. 07319-2019, filed August 9, 2019, in Docket No. 20190125-WS, at pg. 7.

¹⁶Tradewinds is a Class B utility.

**Table 7-1
 Comparable Water O&M Expense Per ERC**

Annual Report Year	CFAT (227 ERCs)	Tradewinds (616 ERCs)	The Woods (59 ERCs)
2016	\$222.31	\$197.94	\$422.61
2017	\$278.85	\$239.02	\$468.75
2018	\$302.61	\$209.84	\$476.11
3-Year Average	\$267.92	\$215.60	\$455.82

Source: CFAT, Tradewinds, and The Woods 2016-2018 Annual Reports, and staff calculations.

Additional support offered by the Utility included the “2016 American Water Works Association Benchmarking Performance Indicators for Water and Wastewater” (AWWA Benchmark) and an independent third-party contract and benchmarking review commissioned by the Florida Governmental Utility Authority (FGUA), which was issued in 2013. According to the AWWA Benchmark, the median O&M expense per account of the 44 water companies surveyed is \$430.71, including customer service costs, with a range from \$331.25 to \$639.82. Compared to the results of this analysis, while the recommended O&M per ERC of \$490 is above the average, it is well within the range of \$331 to \$640.

The contract and benchmarking review commissioned by FGUA was undertaken to review charges by USWSC in comparison to similar water utilities throughout the United States. The FGUA study concluded that the USWSC costs on a per account basis fell within the top quartile (lower cost) of other utilities.¹⁷ While the Utility represented that there was a flaw in the data presented in the 2013 study, staff’s greater concern is the age of some of the underlying data, which can be tied to AWWA’s 2011 Benchmarking Performance Indicators. As such, staff believes that the 2016 Benchmarking Performance Indicators are a more appropriate reference point.

Staff also compared The Woods to five “sister” water utilities that had a rate case approved in the last five years by calculating a three-year average O&M per ERC expense using information contained in each utility’s 2016, 2017, and 2018 Annual Reports.¹⁸ Staff then compared The Woods to five non-U.S. Water affiliated water utilities using the same criteria.¹⁹ Table 7-2 reflects the comparative average O&M expense per ERC for The Woods, its U.S. Water sister utilities, and non-U.S. Water utilities. As shown in Table 7.2 below, while the average O&M expense per ERC incorporated in staff’s recommended water revenue requirements is greater than the average for U.S. Water system utilities, it is comparable to the average level at other utilities that are not served by a USWSC contract.

¹⁷Document No. 07319-2019 filed on August 9, 2019, in Docket No. 20190125-WS, at pg. 36.

¹⁸Gator Waterworks, Inc. and Pine Harbour Waterworks, Inc. were not included in staff’s calculations due to three years of annual reports not being available for either of the utilities.

¹⁹Staff did not include West Lakeland Wastewater, LLC due to three years of annual reports not being available.

**Table 7-2
Water O&M Expense Per ERC**

Utility	O&M Exp./ERC
U.S. Water Sister Utilities (3-Yr. Avg.)	\$306.60
Non-U.S. Water Utilities (3-Yr. Avg.)	\$486.71
The Woods (Staff Recommended)	\$489.52

Source: 2016-2018 Annual Reports and staff calculations.

In the Gator Waterworks, Inc. and Merritt Island Utility Company staff recommendations which are scheduled for the same Commission Conference as this recommendation, staff recommended approval of the contractual services agreement with USWSC, based, in part, on comparisons to other utilities with similar agreements. The contractual services agreements in the Gator and Merritt Island dockets also appeared reasonable when compared to the O&M expenses per ERC of industry peers as reflected in the AWWA Benchmark.

While staff provided similar comparisons for consistency, the water O&M expense per ERC for The Woods is higher than other utilities with similar agreements due to its significantly smaller customer base. As referenced in Table 7-1, CFAT has 227 ERCs and Tradewinds has 616 ERCs, while The Woods has 59 ERCs. In Table 7-2, the sister utilities ranged from 72 to 481 ERCs and non-U.S. Water companies ranged from 73 to 517 ERCs. For the same reason, The Woods is also higher than its industry peers as reflected in the AWWA Benchmark. Given the size of the Utility, staff believes it is necessary to go beyond the comparisons to determine the reasonableness of the USWSC contract in this docket.

Staff notes that the Commission previously approved similar USWSC agreements and related costs in prior cases involving nine of The Woods' sister utilities during eleven rate case proceedings.²⁰ Two sister utilities, LP Waterworks, Inc. and Lakeside Waterworks, Inc., each had two SARCs in which the Commission reviewed and approved expenses related to USWSC management services contracts. In addition to The Woods, two additional sister utilities with

²⁰Order No. PSC-14-0413-PAA-WS, issued August 14, 2014, in Docket No. 20130153-WS, *In re: Application for staff-assisted rate case in Highlands County, by L.P. Utilities Corporation c/o LP Waterworks, Inc.*; Order No. PSC-15-0013-PAA-WS, issued January 2, 2015, in Docket No. 20130194-WS, *In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.*; Order No. PSC-15-0282-PAA-WS, issued July 8, 2015, in Docket No. 20140158-WS, *In re: Application for increase in water/wastewater rates in Highlands County by HC Waterworks, Inc.*; Order No. PSC-15-0329-PAA-WU, issued August 14, 2015, in Docket No. 20140186-WU, *In re: Application for staff-assisted rate case in Brevard County by Brevard Waterworks, Inc.*; Order No. PSC-15-0335-PAA-WS, issued August 20, 2015, in Docket No. 20140147-WS, *In re: Application for staff-assisted rate case in Sumter County by Jumper Creek Utility Company.*; Order No. PSC-16-0256-PAA-WU, issued June 30, 2016, in Docket No. 20150199-WU, *In re: Application for staff-assisted rate case in Lake County by Raintree Waterworks, Inc.*; Order No. PSC-16-0305-PAA-WU, issued July 28, 2016, in Docket No. 20150236-WU, *In re: Application for staff-assisted rate case in Lake County, by Lake Idlewild Utility Company.*; Order No. PSC-2017-0334-PAA-WS, issued August 23, 2017, in Docket No. 20160222-WS, *In re: Application for staff-assisted rate case in Highlands County by LP Waterworks, Inc.*; Order No. PSC-2017-0428-PAA-WS, issued November 7, 2017, in Docket No. 20160195-WS, *In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.*; Order No. PSC-2018-0552-PAA-WU, issued November 19, 2018, in Docket No. 20180022-WU, *In re: Application for staff-assisted rate case in Lake County by Pine Harbour Waterworks, Inc.*; and Order No. PSC-2018-0553-PAA-WU, issued November 19, 2018, in Docket No. 20180021-WU, *In re: Application for staff-assisted rate case in Highlands County by Country Walk Utilities, Inc.*

similar contracts have SARCs pending at this time,²¹ and a third has a file and suspend rate case pending.²²

In regard to the appropriateness of utility contracts with affiliated companies, the Utility cited *GTE v. Deason*, 642 So. 2d 545 (Fla. 1994), in which the Florida Supreme Court stated:

The mere fact that a utility is doing business with an affiliate does not mean that unfair or excess profits are being generated, without more. Charles F. Phillips, Jr., *The Regulation of Public Utilities* 254-255 (1988). We believe the standard must be whether the transactions exceed the going market rate or otherwise inherently unfair . . . [i]f the answer is “no,” then the PSC may not reject the utility’s position.

In the instant case, staff believes that the contract reflects the market conditions of the Utility’s service area. Absent the USWSC contract, staff believes the costs to provide service would most likely be even higher. For the reasons discussed above, staff believes that the Utility’s contract with USWSC is reasonable and the cost should be included for recovery in the Utility’s proposed rates. Therefore, staff recommends test year contractual services - other expense of \$18,560.

Insurance Expense (655)

The Utility recorded a test year insurance expense of \$1,442 for water. Staff allocated this amount equally between water and wastewater. This policy relates to both the water and wastewater systems. Therefore, staff recommends an insurance expense of \$721 ($\$1,442 \div 2$).

Rate Case Expense (665)

The Utility did not record a rate case expense in this account. Staff recommends an annual rate case expense of \$216.

Filing Fees and Customer Notices

The Utility paid a \$1,000 rate case filing fee to be allocated 50 percent to water and 50 percent to wastewater. The Utility is required by Rule 25-22.0407, F.A.C., to provide notices of the customer meeting and notices of final rates in this case to its customers. For noticing, staff estimated \$97 for postage expense, \$59 for printing expense, and \$9 for envelopes. This results in \$165 in expense for the noticing requirements and a \$500 filing fee for the Utility.

Travel Expenses

The Utility did not record travel expense in the test year filing. Therefore, staff has allocated mileage reimbursement of \$68 for travel to attend the customer meeting. Staff believes that the travel for the Commission Conference should be shared with Gator Waterworks, Inc., and The Merritt Island Utility Company. These utilities are sister utilities of The Woods which have SARCs scheduled for the same Commission Conference. As such, staff believes it is appropriate

²¹Docket No. 20190114-WU, *In re: Application for staff-assisted rate case in Alachua County, and request for interim rate increase by Gator Waterworks, Inc.*; and Docket No. 20190116-SU, *In re: Application for staff-assisted rate case in Brevard County, and request for interim rate increase by Merritt Island Utility Company.*

²²Docket No. 20190166-WS, *In re: Application for increase in water rates in Highlands County by HC Waterworks, Inc.*

to split travel costs to the Commission Conference equally between the three utilities, or \$130 (\$389 / 3) per utility, for a total of \$198 (\$68 + \$130) for rate case travel expenses.

Rate Case Expense Amortization

Based on the above, staff recommends total rate case expense of \$864 (\$364 + \$500), to be amortized over four years. Staff's adjustments to these accounts, described above, results in an increase of \$216 (\$864 ÷ 4). Staff recommends regulatory commission expense of \$216 (\$0 + \$216). Rate case expense is delineated in Table 7-3.

**Table 7-3
Rate Case Expense**

Item	Staff Recommended
Filing Fee	\$ 500
Travel – Customer Meeting	68
Travel – Agenda Conference	130
Notices – Customer Meeting	72
Notices – Final Rates	47
Notices – Four-Year Rate Reduction	47
Total Rate Case Expense	<u>\$864</u>
Annual Rate Case Expense	<u>\$216</u>

Source: Responses to staff data requests.

Bad Debt Expense (670)

The Utility recorded a bad debt expense of \$4,038 for the test year. It is Commission practice to calculate bad debt expense using a three-year average. Staff used the actual bad debt expense numbers for 2017 and 2018, and then annualized the first 10 months of 2019 to create a full three-year average. Using this methodology, staff calculated bad debt expense of \$3,019. Staff believes the appropriate bad debt expense for the test year is the most recent three-year average. Therefore, staff recommends reducing bad debt expense by \$1,019 resulting in test year bad debt expense of \$3,019 (\$4,038 - \$1,019).

Miscellaneous Expenses (675)

The Utility recorded a test year miscellaneous expense of \$871. Staff reduced this account by \$150, for fees for preparation of the annual report to the State of Florida and reclassified this amount to contractual services - accounting. Therefore, staff recommends a miscellaneous expense of \$721 (\$871 - \$150).

Operation and Maintenance Expense Summary

Based on the above adjustments, O&M expense should be decreased by \$1,800, resulting in total O&M expense of \$30,350, as shown in Schedule Nos. 3-A through 3-E.

Depreciation Expense

The Utility's records reflect test year water depreciation expenses of \$22,025. Staff increased the depreciation expense by \$4,033 to reflect the Utility's WTP additions. Staff auditors recalculated depreciation expenses using the prescribed rates set forth in Rule 25-30.140, F.A.C., and

decreased depreciation expense by \$575. Staff recommends a further reduction of \$410 to reflect non-used and useful portions of the depreciation expense. Therefore, staff recommends a depreciation expense of \$25,073 ($\$22,025 + \$4,033 - \$410 - \575).

Amortization Expense (Net)

The Utility recorded Amortization Expense of \$23,681 for the test year ended March 31, 2019. Staff reduced this amount by \$389 to reflect an auditing adjustment and \$583 to reflect the non-used and useful portion and recommends total amortization expense of \$22,709 ($\$23,681 - \$389 - \583).

Amortization CIAC

The Utility recorded CIAC Amortization expense of negative \$88. Staff agrees with the Utility's amount and recommends no adjustment.

Negative Acquisition Amortization Expense

The Utility recorded a negative acquisition amortization expense of \$24,790 for the test year ended March 31, 2019. Staff calculated the amortization expense for the acquisition adjustment per Order No. PSC-2014-0300-PAA-WS, which is in accordance with Rule 25-30.0371(4)(b)2, F.A.C. and determined that the related test year amortization expense should be a negative \$24,996. Staff recommends an adjustment to decrease the amortization expense by \$206 to reflect the audit adjustment. Staff also recommends a corresponding adjustment to reflect the non-used & useful adjustment, decreasing the negative acquisition amortization expense by \$583 ($-\$24,413 (-\$24,790 - \$206 + 583)$).

Hydro Tank Coating

The amortization included in Account 407-3 – Hydro Tank Amortization by the Utility of \$1,197 reflects 8 months of amortization. Staff recalculated the amortization for the 12 months to be \$1,792, in accordance with Rule 25-30.433(9), F.A.C. Staff recommends that Amortization Expense should be increased by \$595 to reflect 12 months of amortization in the test year of \$1,792 ($\$1,197 + \595).

Taxes Other Than Income

The Utility recorded taxes other than income (TOTI) of \$2,392 for the test year ended March 31, 2019. Staff increased the amount by \$288 to reflect increased property and tangible property taxes. Property taxes are calculated at the current 2019 millage rate. Staff increased the amount by \$86 to reflect an audit adjustment and \$30 to reflect increased RAFs due to the recommended rate increase. Staff decreased the amount by \$22 to reflect the non-used and useful portions of property and tangible property tax. Staff increased the total by \$792 to reflect the property tax increase for the plant additions. The result is a net increase of \$1,173 ($\$288 + \$86 + \$30 - \$22 + \792).

In addition, as discussed in Issue 8, revenues have been increased by \$7,806 to reflect the change in revenue required to cover expenses and allow an opportunity to earn the recommended rate of return. As a result, TOTI should be increased by \$351 to reflect RAFs of 4.5 percent on the change in revenues. Therefore, staff recommends TOTI expense of \$3,917 ($\$3,566 + \351).

Income Tax

The Utility is a Subchapter S Corporation and therefore did not record any income tax expense for the test year. Therefore, staff recommends no adjustment to income tax expense.

Operating Expenses Summary

Staff recommends operating expenses of \$36,631. Operating expenses are shown on Schedule No. 3-A. The related adjustments are shown on Schedule No. 3-B.

Issue 8: What is the appropriate revenue requirement for The Woods Utility Company?

Recommendation: The appropriate revenue requirement is \$49,179, resulting in an annual increase of \$7,806 (18.87 percent). (Hightower)

Staff Analysis: The Woods should be allowed an annual increase of \$7,806 (18.87 percent). The calculations are shown in Table 8-1.

Table 8-1
Revenue Requirement - Water

Adjusted Rate Base	\$165,678
Rate of Return	<u>7.57%</u>
Return on Rate Base	12,548
Adjusted O&M Expense	30,350
Depreciation Expense	25,073
Amortization	(22,709)
Taxes Other Than Income	3,917
Income Taxes	<u>0</u>
Revenue Requirement	\$49,179
Less Test Year Revenues	<u>\$41,373</u>
Annual Increase / (Decrease)	<u>\$7,806</u>
Percent Increase / (Decrease)	<u>18.87%</u>

Source: Responses to staff data requests.

Issue 9: What are the appropriate rate structures and rates for the water system of The Woods Utility Company?

Recommendation: The recommended rate structures 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. (Bethea)

Staff Analysis: The Utility is located in Sumter County within the SWFWMD. The Woods provides water service to approximately 58 residential customers and 1 general service customer. Typically, staff evaluates the seasonality of Utility customers based on the percentage of bills at zero gallons, which is 16 percent. Staff then evaluated the seasonality based on the percentage of bills at the 1,000 gallon level, which is 37 percent. As a result, it appears that the customer base is somewhat seasonal. The average residential water demand is 3,406 gallons per month. The average water demand excluding zero gallon bills is 4,030 gallons per month. The Utility's current water system rate structure for residential service consists of a monthly base facility charge (BFC) based on meter size with a three tier gallonage charge: (1) 0-6,000 gallons; (2) 6,001-12,000 gallons; and (3) all usage in excess of 12,001 gallons per month. General service customers are billed a monthly BFC based on meter size and a 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.

In this case, staff recommends that 40 percent of the water revenues should be generated from the BFC, which will provide sufficient revenues to design gallonage charges that send pricing signals to customers using above the non-discretionary level. According to census data, the average people per household served by the water system is two and a half; 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 4,000 gallons per month.²³ Staff recommends a BFC and a three tier inclining block rate structure, which includes separate gallonage charges for discretionary and non-discretionary usage for residential water customers. The staff recommended blocks are: (1) 0-4,000 gallons; (2) 4,001-10,000 gallons; and (3) all usage in excess of 10,000 gallons per month. This rate structure sends the appropriate pricing signals because it targets high consumption levels and minimizes price increases for customers at non-discretionary levels. In addition, the third tier provides an additional pricing signal to customers using in excess of 10,000 gallons of water per month, which represents approximately 10 percent of the usage. General service customers should be billed a BFC and uniform gallonage charge.

²³Average person per household was obtained from www.census.gov/quickfacts/sumtercountyflorida

Based on the customer billing data, approximately 33 percent of total residential consumption is discretionary and subject to the effects of repression. Customers will typically adjust their discretionary consumption in response to price changes, while non-discretionary consumption remains relatively unresponsive. Based on a recommended revenue increase of 20.6 percent, which excludes miscellaneous revenues, the residential consumption can be expected to decline by 118,000 gallons resulting in anticipated average residential demand of 3,239 gallons per month. Staff recommends a 4.9 percent reduction in test year residential gallons for rate setting purposes and corresponding reductions of \$66 for purchased power, \$78 for chemicals, and \$7 for RAFs to reflect the anticipated repression, which results in a post repression revenue requirement of \$45,519.

Table 9-1 contains staff's recommended water rate structure and rates, as well as an alternative rate structure. The alternative rate structure BFC allocation of 42 percent and rate blocks are consistent with the current rate structure. Staff notes that the calculation of the gallonage charges under the alternative rate structures yields the same charges as under the staff-recommended rates. However, as a result of the higher BFC allocation and different rate structure, the bill impacts between the staff-recommended and alternative rates are different. The alternative rate structure, in comparison to the staff-recommended rates, sends less of a pricing signal to target discretionary usage. The staff-recommended rate structure provides both rate stability and a significant pricing signal that targets discretionary usage.

**Table 9-1
 Staff's Recommended and Alternative Water Rate Structures and Rates**

	Rates at the Time of Filing	Staff Recommended Rates 40% BFC	Alternative Rates 42% BFC
<u>Residential</u>			
5/8" x 3/4" Meter Size	\$19.11	\$23.83	\$25.07
Charge per 1,000 gallons			
0-6,000 gallons	\$6.58	N/A	\$8.41
6,001-12,000 gallons	\$9.90	N/A	\$12.62
Over 12,000 gallons	\$13.17	N/A	\$16.82
0-4,000 gallons	N/A	\$8.41	N/A
4,001-10,000 gallons	N/A	\$12.62	N/A
Over 10,000 gallons	N/A	\$16.82	N/A
4,000 Gallons	\$45.43	\$57.47	\$58.71
6,000 Gallons	\$58.59	\$82.71	\$75.53
9,000 Gallons	\$88.29	\$120.57	\$113.39

Source: Utility's tariff and staff's calculations

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

Issue 10: What are the appropriate initial customer deposits for The Woods Utility Company?

Recommendation: The appropriate initial customer deposit is \$102 for all residential meter sizes. The initial customer deposits for all general service meter sizes should be two times the average estimated monthly bill. The approved initial customer deposits should be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved initial customer deposits until authorized to change them by the Commission in a subsequent proceeding. (Bethea)

Staff Analysis: Rule 25-30.311, F.A.C., provides the criteria for collecting, administering, and refunding customer deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the Utility and, ultimately, the general body of ratepayers. An initial customer deposit ensures that the cost of providing service is recovered from the cost causer. Historically, the Commission has set initial customer deposits equal to two times the average estimated bill.²⁴ Currently, the Utility has an initial customer deposit of \$89.06. However, this amount does not cover two months' average bills based on staff's recommended rates. The Utility's average monthly residential water usage after repression is 3,239 gallons per customer. Therefore, the average residential monthly bill based on staff's recommended rates is approximately \$51.

Staff recommends the appropriate initial customer deposit is \$102 for all residential meter sizes. The initial customer deposits for all general service meter sizes should be two times the average estimated monthly bill. The approved initial customer deposits should be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved initial customer deposits until authorized to change them by the Commission in a subsequent proceeding.

²⁴Order No. PSC-15-0142-PAA-SU, issued March 26, 2015, in Docket No. 130178-SU, *In re: Application for staff assisted rate case in Polk County by Crooked Lake Park Sewerage Company.*

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?

Recommendation: In four years, 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 367.081(8), F.S. The Woods 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. (Procedural Agency Action) (Bethea, Hightower)

Staff Analysis: Section 367.081(8), 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 and the gross-up for RAFs. This results in a reduction of \$226.

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 367.081(8), F.S. The Woods 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.

Date: February 20, 2020

Issue 12: Should the recommended rates be approved for The Woods Utility Company 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. The Woods 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. (Procedural Agency Action) (Hightower)

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

The Woods should be authorized to collect the temporary rates upon staff's approval of an appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$6,757 for water. 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, The Woods 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 The Woods be required to notify the Commission within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) associated with the Commission approved adjustments?

Recommendation: Yes. The Utility should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. The Woods should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (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 not less than 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. (Procedural Agency Action) (Hightower)

Staff Analysis: The Utility should be required to notify the Commission, in writing that it has adjusted its books in accordance with the Commission's decision. The Woods 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 not less than seven days prior to deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days.

Issue 14: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action 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 receipt of required biannual status reports on the Utility's until additional monitoring is rescinded by the DEP. Once these actions are complete, this docket should be closed administratively. (Weisenfeld)

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 Proposed Agency Action 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 receipt of required biannual status reports on the Utility's until additional monitoring is rescinded by the DEP. Once these actions are complete, this docket should be closed administratively.

THE WOODS UTILITY COMPANY, INC. TEST YEAR ENDED 03/31/2019 SCHEDULE OF WATER RATE BASE		SCHEDULE NO. 1-A DOCKET NO. 20190125-WS	
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUST.	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	\$531,469	\$45,760	\$577,229
2. LAND & LAND RIGHTS	3,500	0	3,500
3. ACCUMULATED DEPRECIATION	(280,548)	11,554	(268,994)
4. CIAC	(92,939)	2,167	(90,772)
5. ACCUMULATED AMORTIZATION OF CIAC	90,784	(2,180)	88,604
6. ACQUISITION ADJUSTMENT	(259,183)	6,042	(253,141)
7. ACCUM AMORT ACQ ADJ	142,544	(37,059)	105,485
8. WORKING CAPITAL ALLOWNACE	<u>0</u>	<u>3,767</u>	<u>3,767</u>
9. WATER RATE BASE	<u>\$135,627</u>	<u>\$30,051</u>	<u>\$165,678</u>

THE WOODS UTILITY COMPANY, INC.	SCHEDULE NO. 1-B
TEST YEAR ENDED 03/31/2019	DOCKET NO. 20190125-WS
ADJUSTMENTS TO RATE BASE	
	<u>WATER</u>
<u>UTILITY PLANT IN SERVICE</u>	
1. To reflect non-used and useful adjustment.	(\$13,778)
2. To reflect an averaging adjustment.	(9,238)
3. To reflect water filter retrofit.	68,187
4. To reflect pro forma plant - power pole.	2,357
5. To reflect pro forma retirement.	(1,768)
Total	<u>\$45,760</u>
<u>ACCUMULATED DEPRECIATION</u>	
1. To reflect audit staff recalculation of accumulated depreciation.	\$1,096
2. To reflect non-used and useful adjustment.	2,726
3. To reflect an averaging adjustment.	9,997
4. To reflect pro forma adjustment.	(2,265)
Total	<u>\$11,554</u>
<u>CIAC</u>	
1. To reflect non-used and useful adjustment.	<u>\$2,167</u>
Total	<u>\$2,167</u>
<u>ACCUMULATED AMORTIZATION OF CIAC</u>	
1. To reflect (audit) staff recalculation to accumulated depreciation.	(\$16)
2. To reflect non-used and useful adjustment.	(2,116)
3. To reflect an averaging adjustment.	(48)
Total	<u>(\$2,180)</u>
<u>ACQUISITION ADJUSTMENT</u>	
1. To reflect non-used and useful adjustment.	<u>\$6,042</u>
<u>ACCUMULATED AMORTIZATION ACQ. ADJ.</u>	
1. To reflect audit finding no. 2 accumulated acquisition adjustment.	(\$21,746)
2. To reflect the Amortization of the Acquisition Adjustment.	(12,497)
3. To reflect an adjustment to acquisition adjustment for Non U&U.	(2,816)
Total	<u>(\$37,059)</u>
<u>WORKING CAPITAL ALLOWANCE</u>	
To reflect 1/8 of test year O&M expenses.	<u>\$3,767</u>

THE WOODS UTILITY COMPANY, INC.						SCHEDULE NO. 2	
TEST YEAR ENDED 03/31/2019						DOCKET NO. 20190125-WS	
SCHEDULE OF CAPITAL STRUCTURE							
<u>CAPITAL COMPONENT</u>	<u>PER UTILITY</u>	<u>BALANCE AFTER ADJUSTMENTS</u>	<u>PRO RATA ADJUSTMENTS</u>	<u>BALANCE PER STAFF</u>	<u>PERCENT OF TOTAL</u>	<u>COST</u>	<u>WEIGHTED COST</u>
1. COMMON STOCK		\$0	\$0	\$0	0.00%		
2. RETAINED EARNINGS		\$0	\$0	\$0	0.00%		
3. PAID IN CAPITAL		\$0	\$0	\$0	0.00%		
4. OTHER COMMON EQUITY	<u>\$275,788</u>	<u>\$275,788</u>	<u>(\$117,927)</u>	<u>\$157,861</u>	<u>95.28%</u>		
TOTAL EQUITY	275,788	275,788	(117,927)	157,861	95.28%	7.85%	7.48%
5. LONG-TERM DEBT		0	0	0	0.00%	0.00%	0.00%
6. SHORT-TERM DEBT		0	0	0	0.00%	0.00%	0.00%
7. PREFERRED STOCK		0	0	0	0.00%		0.00%
TOTAL DEBT	\$0	0	0	0			0.00%
8. CUSTOMER DEPOSITS	7,817	7,817	0	7,817	4.72%	2.00%	0.09%
9. DIFERRED INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0%</u>	0%	<u>0%</u>
10. TOTAL	\$283,605	\$283,605	(\$117,927)	\$165,678	100.00%		7.57%
RANGE OF REASONABLENESS						<u>LOW</u>	<u>HIGH</u>
RETURN ON EQUITY						6.85%	8.85%
OVERALL RATE OF RETURN						6.62%	8.53%

THE WOODS UTILITY COMPANY, INC.			SCHEDULE NO. 3-A		
TEST YEAR ENDED 03/31/2019			DOCKET NO. 20190125-WS		
SCHEDULE OF WATER OPERATING INCOME					
	TEST YEAR PER UTILITY	STAFF ADJUST- MENTS	STAFF ADJUSTED TEST YEAR	ADJUST FOR INCREASE	REVENUE REQUIREMENT
1. TOTAL OPERATING REVENUES	\$39,229	\$2,144	\$41,373	\$7,806 18.87%	\$49,179
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$32,150	(\$1,800)	\$30,350		\$30,350
3. DEPRECIATION (NET)	22,025	3,048	25,073		25,073
4. AMORTIZATION CIAC	(88)		(88)		(88)
5. AMORTIZATION ACQ ADJ	(24,790)	377	(24,413)		(24,413)
6. AMORTIZATION TANK PAINT	1,197	595	1,792		1,792
7. TAXES OTHER THAN INCOME	2,392	1,173	3,566	351	3,917
8. INCOME TAXES	<u>0</u>		<u>0</u>		<u>0</u>
TOTAL OPERATING EXPENSES	<u>32,886</u>	<u>3,393</u>	<u>36,280</u>	<u>351</u>	<u>36,631</u>
9. OPERATING INCOME / (LOSS)	<u>\$6,343</u>		<u>\$5,093</u>		<u>\$12,548</u>
10. WATER RATE BASE	<u>\$135,627</u>		<u>\$30,051</u>		<u>\$165,678</u>
11. RATE OF RETURN					<u>7.57%</u>

THE WOODS UTILITY COMPANY		SCHEDULE 3-B
TEST YEAR ENDED 03/31/2019		DOCKET NO. 20190125-WS
ADJUSTMENTS TO OPERATING INCOME		PAGE 1 OF 2
		<u>WATER</u>
OPERATING REVENUES		
1.	To reflect an auditing adjustment to Service Revenues.	\$1,464
2.	To reflect the appropriate test year Service Revenues	<u>3,531</u>
	Subtotal	<u>\$4,995</u>
3.	To reflect an auditing adjustment to Miscellaneous Revenues.	\$20
4.	To reflect the appropriate test year Miscellaneous Revenues.	(2,871)
	Subtotal	<u>(2,851)</u>
	Total Operating Revenues	<u>\$2,144</u>
OPERATION AND MAINTENANCE EXPENSE		
1	Contractual Services - Accounting (632) To reflect an auditing adjustment.	(\$125)
2	Insurance Expense (655) To reflect an auditing adjustment.	(\$721)
3	Rate Case Expense (665) To reflect 1/4 rate case expense.	\$216
4	Bad Debt Expense (670) To reflect three year bad debt average.	(\$1,019)
5	Miscellaneous Expense (675) To reflect an auditing adjustment.	(\$150)
	TOTAL OPERATION AND MAINTENANCE ADJUSTMENTS	<u>(\$1,800)</u>

THE WOODS UTILITY COMPANY		SCHEDULE 3-B
TEST YEAR ENDED 03/31/2019		DOCKET NO. 20190125-WS
ADJUSTMENTS TO OPERATING INCOME		PAGE 2 OF 2
DEPRECIATION EXPENSE		
1. To reflect an auditing adjustment.		(\$575)
2. To reflect non-used and useful adjustment.		(410)
3. To reflect pro forma additions.		<u>4,033</u>
Total		<u>\$3,048</u>
AMORTIZATION EXPENSE ACQ. ADJ.		
1. To reflect an auditing adjustment.		(\$206)
2. To reflect non-used and useful adjustment.		<u>583</u>
Total		<u>\$377</u>
AMORTIZATION TANK PAINTING		
1. To reflect an auditing adjustment.		<u>\$595</u>
Total		<u>\$595</u>
TAXES OTHER THAN INCOME		
1. To reflect an auditing adjustment.		\$86
2. To reflect appropriate test year RAF's.		30
3. To reflect 2019 tangible and property taxes.		288
4. To reflect non-used and useful adjustment to property taxes.		(22)
5. To reflect property taxes associated with pro forma plant additions.		<u>792</u>
Total		<u>\$1,173</u>
TOTAL OPERATING EXPENSE		<u>\$3,393</u>

THE WOODS UTILITY COMPANY, INC.		SCHEDULE NO. 3-C		
TEST YEAR ENDED 03/31/2019		DOCKET NO. 20190125-WS		
ANALYSIS OF WATER O&M EXPENSE				
ACCT. #	DESCRIPTION	TOTAL PER UTILITY	STAFF ADJUST- MENT	TOTAL PER STAFF
603	Salaries and Wages - Officers and Directors	\$3,150	\$0	\$3,150
615	Purchased Power	1,581	0	1,581
618	Chemicals	1,864	0	1,864
632	Contractual Services - Accounting	400	(125)	275
633	Contractual Services - Legal	150	0	150
635	Contractual Services - Testing	94	0	94
636	Contractual Services - Other	18,560	0	18,560
655	Insurance Expense	1,442	(721)	721
665	Rate Case Expense	0	216	216
670	Bad Debt Expense	4,038	(1,019)	3,019
675	Miscellaneous Expenses	<u>871</u>	<u>(150)</u>	<u>721</u>
	Total O&M Expense	<u>\$32,150</u>	<u>(\$1,800)</u>	<u>\$30,350</u>
	Working Capital is 1/8 of O&M Less RCE			\$3,767

THE WOODS		SCHEDULE NO. 4	
TEST YEAR ENDED MARCH 31, 2019		DOCKET NO. 20190125-WS	
MONTHLY WATER RATES			
	UTILITY CURRENT RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential and General Service</u>			
Base Facility Charge by Meter Size			
5/8"X3/4"	\$19.11	\$23.83	\$0.11
3/4"	\$28.67	\$35.75	\$0.17
1"	\$47.78	\$59.58	\$0.28
1-1/2"	\$95.55	\$119.15	\$0.56
2"	\$152.88	\$190.64	\$0.90
3"	\$305.76	\$381.28	\$1.79
4"	\$477.75	\$595.75	\$2.80
6"	\$955.50	\$1,191.50	\$5.60
8"	\$1,528.80	\$1,906.40	\$8.96
10"	\$2,197.65	\$2,740.45	\$12.88
Charge per 1,000 gallons - Residential Service			
0-6,000 gallons	\$6.58	N/A	N/A
6,001-12,000 gallons	\$9.90	N/A	N/A
Over 12,000 gallons	\$13.17	N/A	N/A
Charge per 1,000 gallons - Residential Service			
0-4,000 gallons	N/A	\$8.41	\$0.04
4,001-12,000 gallons	N/A	\$12.62	\$0.06
Over 12,000 gallons	N/A	\$16.82	\$0.08
Charge per 1,000 gallons - General Service	\$7.38	\$10.08	\$0.05
<u>Private Fire Protection</u>			
Base Facility Charge by Meter Size			
2"	\$12.74	\$15.89	
3"	\$25.48	\$31.77	
4"	\$39.81	\$49.65	
6"	\$79.63	\$99.29	
8"	\$127.40	\$158.87	
10"	\$183.14	\$228.37	
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
4,000 Gallons	\$45.43	\$57.47	
6,000 Gallons	\$58.59	\$82.71	
9,000 Gallons	\$88.29	\$120.57	

Item 6

State of Florida



Public Service Commission

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

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

DATE: February 21, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Wright, Doehling, Ellis, King) *SW JD POE*
Division of Accounting and Finance (Mouring, Fletcher) *AM*
Division of Economics (Galloway, Wu) *WMB*
Office of the General Counsel (Trierweiler, Simmons) *KS WET JSC*

RE: Docket No. 20190061-EI – Petition for approval of FPL SolarTogether program and tariff, by Florida Power & Light Company.

AGENDA: 03/03/20 – Regular Agenda - Post-Hearing Decision - Participation Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Staff recommends addressing the Issues in the following order: Issues 2, 3, 1, 4 and 6.

RECEIVED-FPSC
2020 FEB 21 PM 3:11
COMMISSION CLERK

Case Background

On March 13, 2019, Florida Power & Light Company (FPL or Utility) filed a petition (Petition) for a new voluntary community solar program (SolarTogether Program or Program) and associated tariff. The proposed SolarTogether Program is designed to allow FPL customers to subscribe to a portion of new solar capacity built through the Program (subscription charge) and to receive a credit of a portion of the system savings produced by that solar capacity (subscription credit). Phase 1 of the Program consists of five FPL SolarTogether projects that comprise a total of 20 solar photovoltaic (PV) power plants. Each power plant is rated at 74.5 megawatts (MW) for a total of 1,490 MW that would provide electricity to all of FPL's customers.

The Office of Public Counsel (OPC), Walmart, Inc. (Walmart), the Southern Alliance for Clean Energy (SACE), Vote Solar, and the Florida Industrial Power Users Group (FIPUG) were granted intervention in this docket. In June of 2019, Vote Solar and OPC both filed motions requesting the SolarTogether Program and tariff be set for an administrative hearing. FPL objected to both motions. After considering the arguments made by the parties, the matter was set for an administrative hearing.

FPL filed its direct testimony on July 29, 2019. Staff, SACE, Walmart, Vote Solar, and OPC filed direct testimony on September 3, 2019. FPL filed its rebuttal testimony on September 23, 2019, which included a revised tariff. On September 27, 2019, OPC filed a motion for continuance of the hearing, or in the alternative, a motion to strike portions of FPL's rebuttal testimony, arguing that there was insufficient time and opportunity to address the tariff revisions filed with FPL's rebuttal. FPL filed a response in opposition to OPC's motion. In response to OPC's motion, new controlling dates and discovery response times were established.

On October 9, 2019, FPL, SACE, Vote Solar, and Walmart (Joint Movants) filed a Joint Motion to Approve Settlement (Joint Motion), with the Joint Movants' Stipulation and Settlement (Settlement Agreement) attached. A newly revised tariff (proposed tariff or rate Schedule STR; Attachment 1 to this recommendation) was included as Attachment I to the Settlement Agreement. OPC filed a response in opposition to the Joint Motion on October 16, 2019. In response to the new filings, the parties were allowed additional discovery and an opportunity to file additional testimony with respect to the proposed Settlement Agreement. Subsequently, both staff and OPC filed supplemental testimony on November 15, 2019, with FPL filing supplemental rebuttal testimony on November 27, 2019. On December 5, 2019, FPL filed a Notice of Superseding Proposed Tariff, stating that Attachment I of the Settlement Agreement supersedes the prior proposed tariffs in this docket.

On January 2, 2020, Duke Energy Florida, LLC (DEF) filed a motion for leave to file amicus curiae comments, with comments attached, in support of FPL's Petition. DEF stated that the SolarTogether Program would allow customers the opportunity to support universal solar expansion which is already cost effective for all customers. DEF also stated that a voluntary option like the SolarTogether Program provides all customers with the benefits of utility-owned universal solar. DEF noted that while the Program may result in a policy shift, approving the Program would continue the Commission's strong tradition of supporting public interest programs that utilize creative regulatory outcomes in a consistent, measured manner. OPC filed a response in opposition to DEF's motion on January 9, 2020. The Prehearing Conference was held on January 10, 2020. By Order No. PSC-2020-0017-PHO-EI (Prehearing Order), DEF's motion was granted.

The administrative hearing was held on January 14-15, 2020. All parties, except FIPUG, filed briefs on January 30, 2020. Because FIPUG did not file a brief, it has waived all issues pursuant to the Prehearing Order (page 20). The Florida Public Service Commission (Commission) has jurisdiction over this matter pursuant to Sections 366.03, 366.05, and 366.06, Florida Statutes (F.S.).

Settlement Agreement and Standard of Review

As mentioned previously, there is an outstanding non-unanimous Joint Motion filed by FPL, SACE, Vote Solar, and Walmart. The Joint Motion proposes that the SolarTogether Program should be approved as described in FPL's Petition, as modified by FPL's rebuttal testimony and exhibits, along with Paragraphs 4 and 5 within the Settlement Agreement. Paragraph 4 states that 37.5 MW, or 10% of the residential capacity for Phase 1, will be allocated to low-income customers. The subscription charge will not exceed the subscription credit in any month for these customers. These provisions for the low-income participants will begin with Project 3 with expected billing to start in February 2021. Paragraph 5 states the pricing for the subscription charge and the rate for the subscription credit for both standard and low-income customers is set forth in rate Schedule STR, Attachment 1 to this recommendation. Pursuant to paragraph 3(f) of the Settlement Agreement, participants may elect to have FPL retire on their behalf all renewable energy certificates (RECs) associated with their subscription; FPL will not utilize RECs generated by the Program.

Whether or not a settlement is under consideration, the Commission is still bound by Sections 366.01 and 366.06, F.S., which require that the Commission fix rates that are fair, just, and reasonable and determine whether the resolution of the case is in the public interest. Moreover, the Commission's decision must be supported by competent, substantial record evidence. *Sierra Club v. Brown*, 243 So. 3d 903, 909-910 (Fla. 2018), citing *Citizens of State v. Florida Public Service Comm'n*, 146 So. 3d 1143, 1153-54, 1164, 1173 (Fla. 2014).

When considering a settlement agreement, the Commission may look at the totality of the settlement agreement to determine whether the agreement, taken as a whole, resolves all the issues; establishes rates that are fair, just, and reasonable; and is in the public interest. *Florida Industrial Power Users Group v. Brown*, 273 So. 3d 926, 929-930 (Fla. 2019), quoting *Citizens* 146 So. 3d at 1164 (Court upheld Commission's approval of a non-unanimous settlement agreement, finding that the settlement agreement established rates that were just, reasonable, and fair, and that the agreement was in the public interest and supported by competent, substantial evidence). The Florida Supreme Court has also noted that the prudence of large capital investments is a relevant consideration in the Commission's review of a settlement under its public interest standard, because imprudent investment of millions of dollars would likely clash with a public interest finding. *Brown*, 273 So. 3d at 930, quoting *Sierra Club v. Brown*, 243 So. 3d 903, 912 (Fla. 2018). While the Commission may consider the prudence of large capital investments under a settlement agreement, there is no affirmative requirement that the Commission must make independent specific prudence findings in a final order approving a settlement. *Sierra Club*, 243 So. 3d at 912. The Florida Supreme Court has also noted that although the Commission is not required by statute or case law to address each issue of disputed fact in a final order approving a settlement, it nevertheless has the discretion to do so. *Citizens*, 146 So. 3d at 1153. Thus, while the Commission has the authority to consider a non-unanimous settlement,¹ it is not required to do so. The Commission may consider the issues argued in this docket.

¹*Sierra Club v. Brown*, 243 So. 3d 903 (Fla. 2018); *Citizens of State v. Florida Public Service Comm'n*, 146 So. 3d 1143 (Fla. 2014); *South Florida Hosp. and Healthcare Ass'n v. Jaber*, 887 So. 2d 1210 (Fla. 2004).

Rather than initially taking up the Joint Motion at the outset, staff recommends that the Commission address the substantive issues as discussed below. Addressing the substantive issues in this case will effectively resolve the Joint Motion. At the conclusion of addressing all issues, the Commission may either render the Joint Motion moot or take up and rule on the Joint Motion as a fallout matter. Staff recommends this approach for the following reasons:

- The Settlement Agreement in this case, which incorporates the proposed tariff, merely represents an agreement by some of the parties to the proposed Program. Neither the Settlement Agreement nor the record developed in this case deal with issues outside of the proposed Program and tariff. There are no issues contained within staff's recommendation that are not contained within the proposed Program and tariff. In other words, the issues and analysis reflected in staff's recommendation essentially match up with and reflect the sum and substance of the Settlement Agreement and proposed tariff, as litigated.
- The issues addressed at the hearing, and presented in staff's recommendation herein, were agreed upon by the parties at the Prehearing Conference, which occurred after the filing of the Settlement Agreement. Testimony and evidence were taken on these issues at the hearing. In essence, the litigation of this case was based upon the issues agreed upon by the parties, which were founded on the terms of the Settlement Agreement and the proposed tariff.
- Because the record in this case has been fully developed and litigated and the issues track the Settlement Agreement and proposed tariff as filed, taking up the issues in the staff recommendation will provide the Commission with a better framework to ensure that its decision is supported by substantial, competent evidence in the record and ultimately rendered in the public interest.

In addressing the substantive issues, staff recommends that the Commission take the issues up in the following order: Issues 2, 3, 1, 4, and 6.

Executive Summary

Florida has a regulatory framework established through statute that grants utilities specific rights and responsibilities, including the obligation to serve all customers within their service territory. The Commission regulates utilities to ensure that customers receive adequate, safe electric service at rates that are fair, just, and reasonable. The Commission has jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida. Generating electric utilities are required to annually submit to the Commission a ten-year site plan (TYSP), which estimates the future electric load requirements of customers, identifies the mix of resources to be used to serve customers, and the general location of proposed power plant sites. Underlying this process is the principle of “least-cost planning.” This principle is founded upon engineering and economic analyses whereby the least-cost option is selected in order to meet projected customer electric loads.

From the outset of this proceeding, staff’s focus has been to understand the purpose and impact of FPL’s voluntary tariff, its fundamental impact on current regulatory policies and procedures, and its impact on the development of solar generation, even as solar generation is projected to be a cost-effective alternative for all customers. In other words, staff sought to identify the incremental benefits of the SolarTogether Program and proposed tariff to the general body of ratepayers applying current statutes, rules, regulatory policies, and practices. The Commission should consider the following three policy questions when making its final determination of whether the SolarTogether Program and proposed tariff are in the public interest:

If generating facilities are built to meet the desires of certain customers, should all the benefits and costs of such facilities be allocated to those customers?

If solar generation is a cost-effective alternative for all customers, is it appropriate to allocate a majority of benefits to a small group of customers?

Does the proposed allocation of costs and benefits result in undue discrimination or an undue preference?

In the past, voluntary tariffs have been offered when the service desired (i.e., renewable energy) was not cost competitive with traditional generation. Such offerings provided a response to customer demands for a certain type of product. Voluntary contributions were designed to recover the full incremental costs of the desired service from those customers demanding the product, while most importantly, holding the general body of ratepayers harmless.

Here the proposed tariff would authorize FPL to accelerate the construction of solar facilities and to add future solar facilities based upon the Utility’s marketing efforts and the desires of a select group of customers rather than adding generating units to satisfy projected reliability or economic needs for all customers. As such, FPL’s proposed Program and associated rate Schedule STR would disregard the principles of least-cost planning and the resulting costs allocated to all customers.

Section 366.03, F.S., states in part that “[e]ach public utility shall furnish to each person applying therefore reasonably sufficient, adequate, and efficient service upon terms as required by the

commission.” The Statute also states that “[n]o public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.” Granting a preference to one group of customers or subjecting one group to disadvantage does not, *per se*, violate the statutory prohibition, but that preference or disadvantage must be based on relevant, significant facts explained in the Commission’s decision. Determining whether a proposed tariff grants undue preference to a certain group or subjects a group to undue prejudice is a fact-intensive inquiry.

Staff evaluated the Program and proposed tariff’s impact on the three affected entities: participants, the general body of ratepayers, and the Utility. The evidence in the record suggests that there are six areas where undue preference may exist. As discussed in Issue 2, these areas are: initial participant allocation, allocation of net benefits, low-income carve-out, costs not fully funded by participants, alternative to net metering, and subsequent participant allocation. Some examples of preference include:

- FPL allocating 75 percent (1,117.5 MW) of the Program’s capacity to the pre-registered commercial, industrial, and governmental accounts. Ten of these 206 pre-registered customers account for 50 percent of the total Program’s capacity. In contrast, FPL has not yet opened registration for the estimated 74,500 residential and small business classes of customers who are expected to subscribe.
- Only 1.5 percent of FPL’s 4.9 million customers could participate in this Program. Those participants would receive bill credits, which are essentially guaranteed, within eight years. On the other hand, 98.5 percent of FPL’s customers, the non-participants, may see benefits in the form of lower system costs, if at all, after 26 years.
- Non-participants’ bills increase immediately, whereas participants’ bills are gradually offset by a credit.
- Participating customers are not paying the full cost of the Program.

Therefore, the proposed Program and tariff appear to result in an undue preference to participants and subjects the general body of ratepayers to an undue disadvantage.

On the other hand, an incremental benefit of approving the Program appears to be the acceleration of approximately 600 MW of solar generation from 2022 to 2021. The record indicates that the acceleration of this solar generation would result in a relatively slight increase in cost; however, FPL did not provide a quantification of this cost. The acceleration of solar generation would also slightly improve FPL’s fuel diversity, reduce CO₂ emissions, and would promote the development of renewable energy consistent with the Legislative findings in Section 366.92, F.S.

If the Program is not approved, the evidence still suggests that FPL could add over 1,700 MW of future solar generation by 2022. As discussed in Issue 3, Projects 1, 2, and 3, which are approximately 900 MW, would satisfy FPL’s planning reserve margin criterion for the years 2020 - 2021 and are consistent with the Utility’s least-cost generation expansion plan, its 2019 TYSP. While FPL has demonstrated that Projects 1, 2, and 3 are cost-effective generation additions, the incremental cost of accelerating 600 MW (Projects 4 and 5), has not been quantified. As such, even if the proposed Program and tariff is not approved, it appears that

constructing Projects 1, 2, and 3 would be a cost-effective addition to FPL's system that would benefit all customers. FPL may seek cost recovery of these facilities at its next base rate proceeding under current regulatory policies and procedures.

Options to Program as Proposed

FPL argues that the proposed Program and associated tariff would be the next step forward in promoting Florida's energy policy contained in Section 366.92, F.S., which is to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; encourage the development of renewable generation; improve fuel diversity; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers. Staff explored various options that would achieve these same benefits for all customers but did not require the proposed tariff to be implemented. Such options would be consistent with the intent of Section 366.92, F.S., and also avoid any semblance of an undue preference. These options included classifying the solar facilities as a regulatory asset or creating a recovery mechanism similar to ones approved in recent Solar Base Rate Adjustments (SoBRAs) settlement agreements. While FPL agreed that such options could encourage the development of solar generation, it did not support such action as it would not be responsive to the primary purpose of the Program, which is to address "the needs of customers who cannot or do not want to own a net metering system, but are seeking a direct bill credit."

Staff also considered the option of approving the tariff as filed, but recovering the participant credits as a base rate expense item rather than immediate recovery through FPL's fuel clause. The estimated annual credits for 2020 are \$31.7 million and \$105.1 million for 2021. While FPL would bear the risk of these costs until its next rate case, such treatment would provide participants the same benefits as proposed by FPL, eliminate an immediate bill increase to the general body of ratepayers, and more closely reflect the current risks to the general body of ratepayers and FPL associated with traditional net metering. FPL did not support this option but admitted that participating customers would be unaffected.

Discussion of Issues

Issue 1: Is FPL's proposed SolarTogether Rider tariff an appropriate mechanism to seek approval for the construction of 1,490 MW of new solar generation facilities?

Recommendation: No. FPL has not demonstrated the public benefit to be gained by changing current regulatory policies and procedures regarding the addition of generation assets. As such, approval of generation assets should not be linked to a tariff proposal as requested by FPL. (Ballinger, Simmons, Trierweiler)

Position of the Parties:

FPL: Yes. Customers are actively seeking a program like SolarTogether in order to meet sustainability and financial goals. No existing programs or tariffs fill this customer need. Moreover, approving the facilities without an associated tariff would not meet the customer need.

OPC: No.

FIPUG: FIPUG did not file a brief.

SACE: Yes. The Settlement Agreement filed in this docket on October 9, 2019 between FPL, SACE, Vote Solar, and Walmart fully resolves all matters between the referenced parties and provides numerous benefits to both participants and the general body of customers, and is therefore in the public interest. See Issue 4

VOTE

SOLAR: No position.

WALMART: Yes.

Parties' Arguments

FPL

FPL argues that its SolarTogether proposed tariff is the appropriate mechanism to allow customers to participate voluntarily and more directly in the development of solar energy in Florida. (FPL BR 6, 22, 37) The SolarTogether tariff expands access to solar to all customers regardless of size, location, or income levels. (FPL BR 2) FPL contends that customers are actively seeking a program like SolarTogether in order to meet sustainability goals while also sharing in the financial benefits of solar. (FPL BR 5, 9) Moreover, FPL asserts that regulation should be responsive to the needs of customers and the Commission should be open to new and innovative solutions that respond to customer needs and captures benefits for all customers. FPL explains that this is particularly true and relevant for customers wanting to ensure more of their electricity needs are met by solar generation. (FPL BR 18) FPL states that no existing programs or tariffs fill this customer need; however, approving the facilities without an associated tariff would not meet the customer need. (FPL BR 37)

Regarding prudence, FPL asserts that OPC's claim that SolarTogether violates the requirement under Section 366.06(1), F.S., that only prudent capital projects may be factored into rates and charges miscomprehends the law and the facts. (FPL BR 26) FPL contends that with respect to the law, the Florida Supreme Court has confirmed that "when presented with a settlement agreement, the Commission's review shifts to the public interest standard." And, that the public interest standard considers "whether the agreement—as a whole—resolved all the issues, established rates that were just, reasonable, and fair, and is in the public interest." *Citing Florida Indus. Power Users Group v. Brown*, 273 So. 3d 926, 929-30 (Fla. 2019). FPL further explains that the Court found the public interest standard itself incorporates prudence considerations. OPC's prudence challenge presumably rests on its allegation that FPL has not demonstrated a resource need. (FPL BR 26)

Last, FPL contends that for the past decade, the Commission's constructive regulation has advanced Florida's renewable energy policy, which states:

It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers. Section 366.92, F.S.

FPL asserts that SolarTogether is the next important step forward in promoting this policy. (FPL BR 21)

OPC

OPC argues that the SolarTogether proposed tariff is not the appropriate mechanism for approval of 1,490 MW of generation facilities. When the facilities are considered as a 1,490 MW whole, as FPL requests, the subject generation facilities are subject to the Power Plant Siting Act (PPSA).² Therefore, the addition of 1,490 MW in generation facilities in this docket should be subjected to a need determination proceeding pursuant to the PPSA. (OPC BR 2-3)

OPC contends that FPL is proposing to change the definition of "need" in every applicable regulatory context, including the long history and usage of the term in Commission precedent. They argue the concept of need is a well-recognized term of art in the resource planning context. (OPC BR 3) OPC asserts that FPL further urges the Commission to adopt a broader, unprecedented conception of need based on not merely customer preference, but also on unquantified social and alleged economic need – "opportunities to make a difference," allegedly lower emissions, and temporary jobs associated with construction of the solar plants. (OPC BR 3-4)

²Sections 403.501-403.518, F.S., are known as the Florida Electrical Power Plant Siting Act. The PPSA specifies that any solar or steam driven electrical power plant of 75 MW or more must obtain an affirmative determination of need from the Commission as a condition precedent before obtaining other siting approvals for construction of the proposed plant. Sections 403.506 and 403.519, F.S.

Next, OPC argues that FPL admitted SolarTogether is not a least-cost plan, and that it had not provided the Commission with an economic analysis of what it alleged was simply an acceleration of its TYSP. Still, FPL seeks a finding of prudence for \$1.8 billion in generation assets without a need determination for either the 1,490 MW whole or any individual 74.5 MW block, on the basis that its customers want these particular solar assets. Moreover, FPL presented SolarTogether as an all or nothing choice to the Commission, in that the Utility repeatedly stated it does not want the facilities approved if the Program is not also approved in the exact form FPL demands. (OPC BR 5)

Last, OPC argues that whether evaluated under the PPSA or other relevant statutes related to the regulation of electric generation, an interpretation of regulatory governance which rests on approving a project based upon certain customers' desires rather than on empirical measures directly related to ensuring the grid provides adequate electricity to the public at the lowest reasonable cost will set a precedent which calls the entire electric regulatory structure and the regulatory compact into question. (OPC BR 5-6) Taken to its logical end, contends OPC, where a customer preference for a certain type of generation determines policy-making, there is no particular need for a Public Service Commission – the job could be done by simple polling. OPC asserts that the Commission is a creature of statute, and thus lacks the authority to establish a new policy untethered to a statute or legislative grant of authority to broaden the grounds on which massive generation resources are approved. (OPC BR 6)

SACE

SACE did not specifically address whether the proposed tariff is an appropriate mechanism to seek approval of new solar generation facilities but rather argues that the Commission should approve the Settlement Agreement filed on October 9, 2019. (SACE BR 3) SACE argues that the Commission is afforded great deference to determine that a settlement agreement between parties is in the public interest and that it has been presented with substantial, competent evidence during the hearing upon which to make a public interest determination. (SACE BR 4) SACE contends that, taken as a whole, the proposed tariff and Program provisions embodied in the Settlement Agreement provide a number of benefits that are clearly in the public interest that include: expansion of renewable energy through the development of 1,490 MW of clean, renewable power; diversification of the state's fuel mix; a cost-effective program; allocation of economic benefit to both participants and the general body of ratepayers; prioritizing the customer experience, including expanding participation to low-income families; meeting FPL's resource needs in 2020 and 2021; meeting the enormous customer demand for solar power; and driving state economic development and local job creation. (SACE BR 4-5)

Vote Solar

Vote Solar did not take a position on this issue.

Walmart

Walmart did not provide issue-specific arguments in its brief but stated, "Walmart believes that the proposed Settlement Agreement, including the SolarTogether Settlement Tariff, is a reasonable compromise of the Settling Parties' different positions in this case and is otherwise in the public interest." (Walmart BR 2)

Analysis

Summary of Proposed SolarTogether Program and Associated Tariff

In its brief, FPL asserts that while many aspects of the SolarTogether Program were explored during the hearing, the driving forces behind its Petition are not debatable: “FPL is listening intently to its customers and is developing innovative solutions to satisfy their needs in a manner that benefits all.” (FPL BR 1) The proposed Program was developed to give customers the opportunity to “directly support the expansion of solar power without the need to install solar on their rooftop.” (Petition 2) FPL initially conducted outreach and marketing efforts, which included providing terms and expected pricing, to its largest energy and demand customers in order to gauge interest in such a program. (TR 62-64; Petition 2) When further describing customer desires regarding solar generation, FPL witness Valle stated “[a]lthough their reasons for being interested in community solar varied, a top driver was electric bill savings.” (TR 53) In addition to requesting approval of the Program and associated tariff, FPL is also seeking an advanced prudency determination for the costs associated with 1,490 MW of solar generation to be installed between 2020 and 2021 that would provide electricity to all of FPL’s customers. (TR 113-114; EXH 38, BSP 193)

From November 29, 2018, through January 25, 2019, FPL opened a pre-registration period for its commercial, industrial, and governmental accounts. (TR 62; EXH 39, BSP 236) During this period, 206 customers pre-registered for approximately 1,100 MW of solar capacity. (TR 130) Based on the high level of customer interest, FPL sized Phase 1 of the Program to include the construction of 20 solar PV power plants, each rated at 74.5 MW for a total of 1,490 MW. (TR 50-51, 59-60) The first six sites (447 MW) are projected to be eligible for inclusion in the Program by March 1, 2020. The next six sites (447 MW) are projected to be eligible for inclusion by February 1, 2021, and the final eight sites (596 MW) of Phase 1 are projected to be eligible for inclusion by May 1, 2021. (TR 60, 197, 221)

According to witness Valle, FPL would initially allocate 75 percent (1,117.5 MW) to the pre-registered commercial, industrial, and governmental accounts. The remaining 25 percent of the Phase 1 capacity (372.5 MW) would be allocated to residential and small business customers who would enroll through a web-based system. (TR 57-59) FPL would periodically reevaluate these allocations and adjust according to demand without Commission approval. (TR 57) Once subscription limits are met, customers would be waitlisted until an opportunity to enroll presented itself. FPL would monitor enrollment levels to determine if/when additional SolarTogether phases would be warranted. (TR 60) Witness Valle suggests that FPL is not considering a second phase at this time until customer demand has been determined. (TR 115-116)

FPL claims that the SolarTogether facilities eliminate the need to construct 300 MW of battery storage and one combustion turbine in the 2020-2023 time period. (TR 238) As such, FPL estimates that the Phase 1 SolarTogether facilities would save all customers an estimated \$249 million in cumulative present value of revenue requirements (CPVRR) over the life of the units (30 years). (TR 75, 78, 87) The proposed tariff is designed to share these benefits between participants and the general body of ratepayers. (TR 76)

Participation in the Program is voluntary, would not be tied to a long-term commitment, and is portable within FPL's service territory. (TR 61) Pursuant to the proposed tariff, participating customers would be charged a fixed subscription charge of \$6.76 per kilowatt (kW) per month based on their subscription level, up to 100 percent of their previous annual usage. Participating customers would also receive a cents/kWh credit based on the actual production of the SolarTogether facilities. (Attachment 1) The credit escalates at a fixed rate of 1.7 percent annually for a period of 30 years. (TR 78) The combination of the charge and credit was designed to produce a simple payback of seven years to participating customers. (TR 310-311, 323, 340) This simple payback calculation ignores the time value of money, and using a CPVRR analysis yields an eight year payback period. (TR 502-503; EXH 64) The revenues from the subscription charge would be included as base revenues in FPL's monthly earning surveillance reports. (TR 326) The credits would be recovered through FPL's fuel clause. (TR 148, 328) The administrative costs for the Program, approximately \$11.5 million, would be reflected as base rate recoverable costs. (TR 324; EXH 44, BSP 294) FPL will not increase base rates during the term of its existing base rate settlement but will include the SolarTogether costs and expenses in its monthly earnings surveillance report.³ (EXH 38, BSP 146)

In addition to the SolarTogether subscription charges and credits, participating customers can elect to have FPL retire, on their behalf, any renewable energy certificates (RECs) associated with their SolarTogether subscription. (TR 61; EXH 28) According to the Petition, RECs are defined by the U.S. Environmental Protection Agency as "a market based instrument that represents the property rights to the environmental, social, and other non-power attributes of renewable electricity." (Petition 7)

Summary of Current Planning and Regulatory Framework

Commission witness Hinton discussed the principles of Florida's regulatory framework and the Commission's role. He stated:

Florida has a regulatory framework established through statute that grants utilities specific rights and responsibilities, and that establishes particular roles and responsibilities for the Commission as the economic regulatory agency....

Along with those rights, utilities have the obligation to serve all customers within their service territory, and that service must be adequate, safe, and reliable. Utilities are not permitted to build unnecessary facilities or incur costs for unnecessary services. In addition, utilities may not unduly discriminate or show preference in providing service or charging rates.

The Commission's role is to ensure that customers receive adequate, safe electric service at rates that are fair, just, and reasonable. Those rates may only recover the cost of plant that is actually used and useful in the public service. The Commission also oversees the reliability and sufficiency of the bulk power grid and ensures that any additions to the grid are necessary and cost-effective. (TR 639-640)

³FPL's current settlement has a termination date of December 31, 2020, unless FPL notifies the parties by March 30, 2020, that it wishes to extend its current base rates until December 31, 2021. Order No. PSC-2016-0560-AS-EI.

Witness Hinton also stated that the proposed SolarTogether Program was a departure from traditional least-cost planning. (TR 644) The witness summarized least-cost planning as follows:

Utilities annually assess forecasts of customer load and reserve margins for a ten-year period and perform a system reliability analysis. An evaluation of existing generating resources is conducted by the utility in order to identify potential opportunities to improve generation efficiency. If a need for additional capacity is identified in a given year, the utility will develop alternative resource plans, evaluating combinations of demand-side and supply-side resources, to determine the most feasible, cost-effective approach to meet that need. The important principle underlying this process is the idea of “least cost planning.”

(TR 640)

No other witness offered an alternative view of the current regulatory framework.

Policy Implications of Proposed Program

Chapters 366 and 186.801, F.S., and the Commission’s rules implementing these Statutes, provide a solid framework for flexible utility resource planning that results in cost-effective resource additions for the benefit of all customers. The Commission fulfills its oversight and regulatory responsibilities while leaving day-to-day planning and operations to utility management. While any generation addition adds fixed costs to a utility’s rate base, the resulting addition also impacts the system’s fuel and operation and maintenance (O&M) costs. (TR 227) Under traditional least-cost planning methods, the selection of which type of generating unit to add to the system is driven by CPVRR analyses. Such analyses contain a base case and several sensitivities to determine the relative risk of the proposed addition to changes in fuel prices, loads, emissions costs, capital costs, etc. (TR 239, 506)

Evidence in the record shows that FPL’s 2019 TYSP, which includes over 1,700 MW of future solar generation by 2022, is the least-cost plan resulting in the lowest levelized system average electric rate. (EXH 39, BSP 255; EXH 45, BSP 312) However, FPL’s proposed Program and associated rate Schedule STR disregard the principles of least-cost planning regarding resource additions and resulting cost allocation. (EXH 39, BSP 253; EXH 47, BSP 344; EXH 51, BSP 371) OPC argues that FPL admitted SolarTogether is not a least-cost plan, and that it had not provided the Commission with an economic analysis of what it alleged was simply an acceleration of its TYSP. (OPC BR 5)

Instead of adding generating units to satisfy projected reliability or economic needs for all customers, approval of the proposed tariff would authorize FPL to accelerate the construction of solar facilities and to add future solar facilities based upon the Utility’s marketing efforts and the desires of a select group of customers. OPC contends that whether the generation to be added is evaluated under the PPSA or other relevant statutes related to the regulation of electric generation, an interpretation of regulatory governance which rests on approving a project based upon certain customers’ desires, rather than on empirical measures directly related to ensuring the grid provides adequate electricity to the public at the lowest reasonable cost, will set a precedent which calls the entire electric regulatory structure and the regulatory compact into question. (OPC BR 6)

Staff notes that if the proposed Program and tariff are approved, FPL is projecting its reserve margin to be above 27 percent by 2025.⁴ (EXH 39, Amended Interrogatory No. 190, Attachment 2) Even if the SolarTogether facilities are cost-effective to the general body of ratepayers, as FPL has claimed in its Petition and testimony, staff questions the public benefit to be gained by approving a voluntary tariff that fundamentally changes current regulatory policies and procedures. (Petition 4; TR 46) In the past, voluntary tariffs have been offered when the service desired (i.e., renewable energy) was not cost competitive with traditional generation. Such offerings provided a response to certain customer demands for a certain type of product. Voluntary contributions were designed to recover the full incremental costs of the desired service while, most importantly, holding the general body of ratepayers harmless. As discussed in Issue 2, staff recommends that the proposed Program and rate Schedule STR result in an undue preference to participants and subjects the general body of ratepayers to an undue disadvantage.

Conclusion

FPL has not demonstrated the public benefit to be gained by changing current regulatory policies and procedures regarding the addition of generation assets. As such, approval of generation assets should not be linked to a tariff proposal as requested by FPL.

⁴Order No. PSC-99-2507-S-EU, issued December 22, 1999, in Docket No. 19981890-EU, *In re: Generic investigation into the aggregate electric utility reserve margins planned for Peninsular Florida*. FPL, and other investor-owned utilities, voluntarily adopted a minimum reserve margin planning criterion of 20 percent.

Issue 2: Does FPL's proposed SolarTogether Rider tariff give any undue or unreasonable preference or advantage to any person or locality or subject the same to any undue or unreasonable prejudice or disadvantage in any respect, contrary to Section 366.03, Florida Statutes?

Recommendation: Yes. The SolarTogether Rider tariff grants an undue preference to participants and subjects the general body of ratepayers to an undue disadvantage. (Ballinger, Simmons, Trierweiler)

Position of the Parties:

FPL: No. Undue preferences are avoided by designing rates to recover costs allocated based on customer cost responsibility. The standard is that no customer be harmed by rates charged to other customers. Under SolarTogether, the general body of customers will pay none of that cost while receiving 45% of the savings.

OPC: Yes.

FIPUG: FIPUG did not file a brief.

SACE: No. The Settlement Agreement filed in this docket on October 9, 2019 between FPL, SACE, Vote Solar, and Walmart fully resolves all matters between the referenced parties and provides numerous benefits to both participants and the general body of customers, and is therefore in the public interest. See Issue 4

VOTE

SOLAR: No. As amended, the SolarTogether tariff strikes a fair and reasonable balance in the allocation of the Program's costs and benefits between the general body of customers, non-subscribing customers, and subscribing customers (those who are low-income and non-low-income), in consideration of the unique contributions, needs and interests of each.

WALMART: No.

Parties' Arguments

FPL

FPL argues that undue preferences or subsidizations are avoided by designing rates to recover costs allocated to customers based on their cost responsibility. (FPL BR 19, 38) FPL contends the standard is that no customer or group of customers be harmed by the rates charged to or offerings made to other customers. (FPL BR 19, 38) Moreover, FPL states that, not only is there no harm, there are substantial benefits for all customers. (FPL BR 38) Specifically, FPL argues the Program is structured so that the participants are paying slightly more than 100 percent of the net fixed costs while receiving just over half of the benefits. (FPL BR 7) Conversely, the general body of ratepayers will not pay for any of the fixed cost of the solar centers, but is projected to receive almost half (45 percent) of the benefits. (FPL BR 7-8, 38) FPL further argues that unlike

other community solar programs in the country, SolarTogether shares the program benefits with the general body of ratepayers. (FPL BR 9)

FPL states that the rate impact on the general body of ratepayers resulting from SolarTogether in the near-term is modest, short-lived and compares favorably against placing the 20 solar facilities in service without the SolarTogether Tariff. (FPL BR 34) It notes that the base portion of the bill would not change for the general body of ratepayers through at least 2021 and in the years 2020 and 2021, the fuel portion of the bill is projected to increase roughly 13 cents and 47 cents, respectively. (FPL BR 20-21) FPL disagrees with OPC's claim that the Program is discriminatory, involuntary and subsidized. FPL explains that the SolarTogether Program is projected to be cost-effective at a reasonable cost and provide net benefits in the form of cost savings for the general body of ratepayers, including participants and non-participants, i.e., all FPL customers. (FPL BR 30)

FPL asserts that customers wishing to receive more solar generation by participating in the SolarTogether Program are not "cost causers" as that term is traditionally used. Rather, the participants are better described as "benefit facilitators" who will share an estimated \$112 million with the general body of ratepayers, roughly half of which is in the form of base rate savings not subject to the volatility associated with fuel and emissions prices. (FPL BR 31-32) As such, FPL explains that the general body of ratepayers is not harmed, which is generally understood to be required before there is a finding of undue discrimination or preference. (FPL BR 32) Last, FPL clarifies that the cost of the low-income component will be borne solely by the non-low-income participants. (FPL BR 38)

OPC

OPC argues that one group of customers (non-participants) are subjected to unreasonably different levels of costs, risks, projected savings amounts, and projected savings timeframes. It asserts that FPL glosses over the fact that non-participants are treated in distinctly different, prejudicial ways by relying on generalities which focus heavily on projections based toward the end of the 30 year life of the Program, while impacts during the early years are more certain than the benefit projections (or guesses) made for later years, i.e., the 26 year range. (OPC BR 7)

OPC contends that from day one, participants are guaranteed to receive a set of bill credits and bill surcharges that are pre-scheduled in amount for the 30 year life of the Program with bill credits exceeding the pre-scheduled bill surcharges, such that participants would receive a net benefit or "payback" within eight years. (OPC BR 7) Non-participants would see an immediate bill increase as a direct result of participants' bill credits being recovered from non-participants through the fuel clause. Moreover, argues OPC, non-participants are only projected to see some sort of payback or net savings 26 years after SolarTogether goes into service, if ever. Therefore, non-participants might get a net benefit sometime at the end of the 30 year life of the project, or they might actually receive a net loss. Participants are essentially guaranteed their payback. (OPC BR 7-9) In essence, FPL is asking non-participants to commit to carrying the costs of a \$1.8 billion project for the next 30 years in the hopes of "possibly" receiving a net benefit of \$112 million some 26 years in the future. OPC asserts the question to ask is whether a reasonable person would make that investment. (OPC BR 8)

OPC explains that Florida law requires that rates and charges demanded by public utilities must be “fair.” The law further prohibits public utilities from giving “any undue or unreasonable preference or advantage to any person or locality,” or subjecting them to “any undue or unreasonable prejudice or disadvantage in any respect.” OPC contends that due to the disparate and speculative charges and terms, to which non-participant customers would be subjected, the SolarTogether Program fails to comply with the law which prohibits unreasonable preferences or disadvantages for any customer as compared to another. (OPC BR 8)

OPC next explains that the general body includes both participants and non-participants, so discussing the two groups together only masks the unlawful preference, prevents meaningful comparison of the two groups, and fails to address the critical point: that the level of risk is vastly dissimilar for each group. Participants are not the ones who bear the bulk of the risk, and in fact, they bear essentially no risk, while non-participants bear the bulk of the risk. (OPC BR 9-10) OPC argues that FPL’s claims that participants pay more than 100 percent of the Program’s construction costs, or that non-participants pay none of the costs, are misleading. OPC argues that FPL is seeking recovery of the entire cost of the Program, which is forecasted to be \$1.8 billion. In contrast, OPC notes that participants will only contribute \$1.3 billion, a \$0.5 billion shortfall that would have to be made up for by the general body of ratepayers, 97 percent of whom would be non-participants. (OPC BR 10-11) OPC argues that even FPL concedes that non-participants would pay for the Program, but that the Utility downplays the amount by describing it as “minor.” (OPC BR 10) OPC asserts that should actual costs of the Program be higher, or avoided benefits be lower, the general body of ratepayers would be required to make up the difference. (OPC BR 11) OPC argues that if FPL truly believed in its Program and projections that it would collect all costs from its participants, and not seek rate base recovery as it does in its petition, which shifts all risks to the general body of ratepayers who are ultimately responsible for the costs of the Program. (OPC BR 11)

OPC asserts the “cost causers” or “cost allocation” principle has been recognized by the Commission, the Florida Legislature, and the Florida Supreme Court. These principles ensure that entities or customers that demand and benefit from extraordinary costs will bear those costs. The SolarTogether Program does not contain elements that would justify deviation from this precedent. (OPC BR 11)

OPC next states that another element of disparate treatment built into the SolarTogether Program is that participants’ bills would contain line items to show the charges and corresponding bill credits they receive pursuant to the Program. However, OPC notes the record does not indicate non-participants would have the same level of transparency, in terms of a line item to show them how much they are involuntarily contributing to the Program by funding the net credits⁵ paid to participants. OPC contends the evidence indicates the proposed tariff does not require the customers’ bills to explicitly disclose or show the information to non-participants. Rather, the testimony is that the charges to non-participants will be hidden, without explanation, inside the fuel charge. (OPC BR 13)

⁵Program bill credits less program bill surcharges. (OPC BR 13, FN 9)

Last, OPC contends that FPL reverse-engineered the Program structure to ensure that participating customers obtain a seven year simple payback; however, achieving the seven year simple payback for participants comes at the expense of non-participants. Therefore, argues OPC, FPL arbitrarily proposed rates by first deciding the terms of the Program (costs/credits/payback date) for one set of customers, then adjusting the numbers for non-participants to pay whatever is necessary to keep the participants' terms at the pre-determined level. The Program was specifically crafted to unduly benefit one group of customers to the detriment of another, which violates the plain terms of Section 366.03, F.S. (OPC BR 13-14)

SACE

SACE did not specifically address the issue of undue preference in its brief but rather argues that the Commission should approve the Settlement Agreement filed on October 9, 2019, that resolves all issues between FPL, SACE, Vote Solar and Walmart. (SACE BR 2) SACE argues that the Commission is afforded great deference to determine that a settlement agreement between parties is in the public interest and that it has been presented with substantial, competent evidence during the hearing upon which to make a public interest determination. (SACE BR 4) SACE contends that the SolarTogether Program is cost-effective and fairly and reasonably allocates benefits to all customers. As such, SACE requests that the Commission approve the Settlement Agreement in its entirety and notes that the Commission is not precluded by statute or case law from approving nonunanimous settlements. (SACE BR 5)

Vote Solar

Vote Solar argues that the benefits flowing from the new solar resources being added to FPL's electric grid under the SolarTogether Program will accrue to the general body of ratepayers. The SolarTogether Program and tariff, as amended, is designed to allocate 55 percent of the projected financial benefits specifically to subscribing customers, with the other 45 percent going to all customers. (Vote Solar BR 2-3) Subscribers will cover over 104.5 percent of the Program base revenue requirements through a levelized subscription rate. Vote Solar argues that the SolarTogether Program design is an improvement for the general body of customers over the typical community solar design that would isolate all of the financial benefits to subscribers. In exchange for this long-term benefit, Vote Solar contends the general body of ratepayers contributes to the subscription credit in the early years of the Program offering – with the average residential monthly electric bill expected to go up no more than 47 cents (peaking in 2021, and then decreasing after that). (Vote Solar BR 2-3)

Further, argues Vote Solar, there is a public interest need for additional clean energy capacity that lowers costs for customers suffering from high energy burdens. Low-income customers face significant barriers to accessing clean energy. The SolarTogether Program will begin to address those barriers by providing year-one savings for low-income customers, with a “hold harmless” provision to ensure that a participant's bill will never go up in any month as a result of their enrollment. (Vote Solar BR 3-4)

Walmart

Walmart did not provide issue-specific arguments in its brief but stated, “Walmart believes that the proposed Settlement Agreement, including the SolarTogether Settlement Tariff, is a

reasonable compromise of the Settling Parties' different positions in this case and is otherwise in the public interest." (Walmart BR 2)

Analysis

The Commission has a "long-standing regulatory philosophy . . . that tariffs are to be designed so that the end user is fairly charged for his service and that the general body of ratepayers does not unduly or unreasonably bear the costs of that service."⁶ This philosophy implements Section 366.03, F.S., which provides that "[n]o public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect." Some parties argue that the proposed tariff grants preferential rates to its participants, and some argue that the proposed tariff subjects the general body of ratepayers to disadvantageous rates. However, the main question is not whether the proposed tariff grants preference to some or disadvantages others, but whether that preference and/or disadvantage is "undue or unreasonable."⁷ Several Commission orders and out-of-state court opinions provide guidance for interpreting "undue or unreasonable" in this context. The Commission has taken this language to mean that similarly situated customers must be treated similarly.⁸ The Court of Appeals for the D.C. Circuit has had occasion to interpret the similarly worded Federal Power Act, and its approach mirrors the Commission's.⁹ The D.C. Circuit added that the reason for treating two entities differently must be "based on relevant, significant facts which are explained." *BP Energy Co. v. FERC*, 828 F.3d 959, 967 (D.C. Cir. 2016) (quoting *Complex Consol. Edison Co. of N.Y., Inc. v. FERC*, 165 F.3d 992, 1012–13 (D.C. Cir. 1999)). Thus, the Commission must make a factual determination as to whether any preference granted by or disadvantage caused by a tariff is undue or unreasonable. *See id.*; *Mtn. States Legal Found. v. Pub. Utils. Comm'n*, 590 P.2d 495, 500 (Colo. 1979) (Carrigan, J.,

⁶Order No. PSC-08-0397-PAA-EI, issued June 16, 2008, in Docket No. 20070733-EI, *In re: Complaint No. 694187E by Cutrale Citrus Juices USA, Inc. against Tampa Electric Company for refusing to provide transformer ownership discount for electrical service provided through Minute Maid substation*; *see, e.g.*, Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 20080317-EI, *In re: Petition for rate increase by Tampa Electric Company* (declining to design preferential rates for schools based on non-cost-based factors).

⁷*See* Order No. 24151, issued February 25, 1991, in Docket No. 19890200-EQ, *In re: Petition of Tampa Electric Company for approval of construction deferral agreement with IMC Fertilizer, Inc.* (holding that Section 366.03, F.S., "prohibits only those rates which are *unduly* discriminatory"); *see also* *Mo. River Energy Servs. v. FERC*, 918 F.3d 954, 958 (D.C. Cir. 2019) (citations omitted) ("[A] mere difference in the treatment of two entities does not violate [the Federal Power Act]; instead, undue discrimination occurs only if the entities are 'similarly situated,' such that 'there is no reason for the difference.'").

⁸*E.g.*, Order No. PSC-05-0226-FOF-EI, issued February 25, 2005, in Docket No. 20030623-EI, *In re: Complaints by Ocean Properties, Ltd., J.C. Penney Corp., Target Stores, Inc., and Dillard's Department Stores Inc. against Florida Power & Light Company concerning thermal demand meter error* (holding that FPL had not given certain customers any undue preference because FPL treated similarly situated customers similarly); Order No. 22197, issued November 20, 1989, in Docket No. 19891171-TI, *In re: Proposed tariff filing by AT&T Communications of the Southern States, Inc. for provisional waiver of Rule 25-24.485(1)(i) and permission to provide Miami Children's Hospital public service offering of free long distance for the period 10/30/89 through 8/28/90* (interpreting similar language in former Section 364.10, F.S., to require similarly situated customers to be treated similarly).

⁹*Compare* 16 U.S.C. § 824d(b) (2018) ("No public utility shall . . . make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage") *with* § 366.03 ("No public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.").

dissenting) (“Whether a particular classification of ratepayers is reasonable or not is essentially a fact question for the [Public Utilities Commission].”).

Section 366.03, F.S., also states “[a]ll rates and charges made, demanded, or received by any public utility for any service rendered, or to be rendered by it, and each rule and regulation of such public utility, shall be fair and reasonable.” The Florida Supreme Court made it clear that the Commission’s responsibility of making sure rates are fair and reasonable not only extends to the parties appearing before the Commission, but to the *other utility customers* who are not directly involved in the proceeding.¹⁰ Therefore, staff evaluated the proposed tariff’s impact on FPL, Program participants, and the “other utility customers,” i.e., the general body of ratepayers.

In its brief, FPL contends of its Program that “the general body of ratepayers is not harmed, which is generally understood to be required before there is a finding of undue discrimination or preference.” (FPL BR 32; *citing* verbatim FPL witness Deason’s testimony, TR 469). However, neither FPL nor witness Deason provided the basis for this “general understanding,” and staff can find no support in statute, rule, or precedent for it. Section 366.03, F.S., does not define what constitutes an undue or unreasonable preference. However, the statute does require that rates be fair and reasonable. Commission precedent speaks to prohibiting rates that are unduly discriminatory, and that costs associated with an optional tariff are appropriately borne by the cost causer.¹¹ The Commission must make a factual determination of whether the proposed tariff in this instance gives an undue or unreasonable preference or advantage to any customers, or subjects customers to any undue or unreasonable prejudice or disadvantage. Determining whether FPL’s Program harms the general body of ratepayers may indeed be an important consideration in this case. However, it is not correct that a finding of harm to the general body of ratepayers is an established or even “generally understood” prerequisite to a finding of undue discrimination or preference.

The evidence in the record suggests that there are six areas where a preference may exist. Each area is discussed in more detail below.

Initial Participant Allocation

Through discovery, the Utility clarified that the purpose of the Program was to offer participants an alternative to installing rooftop solar (net metering) thereby allowing participants to achieve desired corporate/political goals of 100 percent renewable energy. (EXH 38, BSP 157) Also, a top driver for participation was electric bill savings. (TR 53) Staff recognizes that not all customers have the financial or physical ability to install rooftop solar and that a community solar program can help overcome these barriers. However, the proposed tariff does not require a customer to provide any information suggesting that they are physically or financially unable to install their own generation and net meter. In addition, staff recommends that a corporate or

¹⁰*C.F. Industries, Inc. v. Nichols*, 536 So. 2d 234 (Fla. 1988).

¹¹Order No. PSC-15-0026-FOF-EI, issued January 7, 2015, in Docket No. 20130223-EI, *In re: Petition for approval of optional non-standard meter rider, by Florida Power & Light Company*, p. 3 (“FPL witness Deason testified that we have a long and consistent history of setting rates based upon a regulated utility’s costs. We agree. We have consistently set rates based on the cost of the service and have allocated those costs to the customer or class of customers who have caused those costs to be incurred.”)

political goal of 100 percent renewable energy is self-imposed that should not be supported by other ratepayers. In its brief, OPC appears to agree and states “FPL and its allies want 98% of FPL’s customers to pay for the SolarTogether special interest project or window dressing so that 1.5% of FPL’s customers can advertise “from day one” that they obtain their energy from 100% renewable sources and meet their nation-wide, private sustainability goals, even though the overall carbon profile in FPL’s territory will not materially change and Florida’s vulnerability to what SACE describes as the climate crisis has not materially changed.” (OPC BR 5)

FPL initially conducted outreach and marketing efforts, including sample terms and estimated pricing, to its largest energy and demand customers in order to gauge interest in such a program. (EXH 38, BSP 77-111; TR 62-64; Petition 2) At the conclusion of this process, 206 customers pre-registered for approximately 1,100 MW of the Program’s capacity. (TR 130) Attachment 2 to the recommendation contains a summary of the initial participant allocation. (EXH 63) Many of these customers pre-registered for 100 percent of their annual usage and 10 of the 206 pre-registered customers account for approximately 50 percent of the total capacity. (EXH 38, BSP 179-180) In contrast, FPL has yet to open registration to the estimated 74,500 residential and small business classes of customers. (EXH 38, BSP 125, 187) Therefore, the residential and small business customers will have to wait until the Program is approved by the Commission to even try to subscribe to any capacity. (TR 59) Furthermore, in total, only 1.5 percent of FPL’s 4.9 million customers would be eligible to participate in this Program. (EXH 38, BSP 125; EXH 39, BSP 244; EXH 63) As such, the Program as proposed, by definition, cannot and will not be used by 98.5 percent of FPL’s customers. Therefore, if solar additions are now a cost-effective generation addition for all customers, it appears the “need” for a voluntary tariff is only to assist a certain small group of customers meet their self-imposed corporate or political goal.

Allocation of Net Benefits

As is common with new generation, the revenue requirements (costs) for the SolarTogether facilities, including capital, transmission, and O&M, exceed the initial system savings (benefits) for avoided generation, transmission, fuel, emissions, and other items. (EXH 50, Interrogatory No. 254, Attachment 1) Over time the benefits increase and eventually exceed the costs, producing net savings to ratepayers. The cumulative value of these costs and benefits is calculated as a CPVRR, which determines the net savings compared to an alternative. The payback period, or the amount of time the project’s cumulative benefits are forecasted to break even with the project’s cumulative costs, can also be calculated using this information. (TR 502-503) Under the Commission’s traditional regulatory framework, the SolarTogether facilities are projected to save approximately \$260 million in net benefits on a CPVRR basis with a payback period of 21 years for all ratepayers. (EXH 50, Interrogatory No. 254, Attachment 1; EXH 64)

FPL’s proposed Program and associated tariff would alter the amount and allocation of net benefits in three ways. First, the Utility would seek recovery of administrative costs to operate the Program, approximately \$11.5 million, which reduces the net benefits from \$260 million to \$249 million. (TR 137; EXH 64)

Second, FPL designed the Program and associated tariff so the credit amount paid to participants exceeds the amount participants pay in subscription charges over the 30 year life of the facilities. (TR 52, 339) Under the Program, participants would receive net benefits of approximately \$137

million, and reduce their payback period from 21 years to only eight years. (TR 558; EXH 64) The general body of ratepayers, the vast majority of whom are non-participants, would decrease their share of net benefits from \$260 million to \$112 million, and increase their payback period from 21 to 26 years. These impacts are summarized in Attachment 3. (EXH 64)

Third, FPL designed the Program’s subscription credits to be a certain value with a fixed escalation rate, disregarding potential changes in the actual costs for fuel and emissions, thereby reducing the risk exposure for participants. (TR 118) As a result, the proposed tariff essentially guarantees net bill credits to participants. Benefits to the general body of ratepayers are speculative as these customers would bear the risk of changes in fuel and emission costs forecasts. For example, the participants’ credits include costs associated with carbon dioxide (CO₂) emissions beginning in 2026. (EXH 38, BSP 47-48) Staff notes that there is no current or pending legislation regarding the cost of CO₂ emissions at this time. In a scenario with no CO₂ related costs, under traditional regulation, the net benefits to all ratepayers would drop to \$170 million with a payback period of 23 years. (TR 140; EXH 64) In that scenario, FPL designed the Program so participants still receive the same net benefit of \$137 million with a payback period of eight years, but the general body of ratepayers would see its net benefits reduced to only \$22 million with a payback period of 30 years. These impacts are summarized in Attachment 4. (EXH 64)

In discovery, staff requested that the Utility evaluate the impact of sensitivities for fuel and emissions costs. Under traditional ratemaking, there would be net benefits in all nine sensitivities for all ratepayers. Under the Utility’s proposed Program, as seen in Table 2-1, the participants’ charges and credits remain constant and provide a net savings of \$137 million with an eight year payback regardless of sensitivity. However, net benefits to the general body of ratepayers vary, and in some sensitivities are actually net costs, with ratepayers never receiving a payback.

Table 2-1
 FPL’s Nine Sensitivities

Fuel Cost Forecast	Environmental Compliance Cost Forecast	Net System Savings (Millions)	SolarTogether Charges (Millions)	SolarTogether Credits (Millions)	Remaining Net System Savings (Millions)	Payback Period (in Years) Utilizing Cumulative NPV		
						Regular Participant	Low Income Participant	Non-Participant
High Fuel Cost	Low CO ₂	(\$323)	(\$1,315)	\$1,452	(\$186)	8	0	20
High Fuel Cost	Mid CO ₂	(\$414)	(\$1,315)	\$1,452	(\$277)	8	0	19
High Fuel Cost	High CO ₂	(\$563)	(\$1,315)	\$1,452	(\$427)	8	0	17
Mid Fuel Cost	Low CO ₂	(\$159)	(\$1,315)	\$1,452	(\$22)	8	0	30
Mid Fuel Cost	Mid CO ₂	(\$249)	(\$1,315)	\$1,452	(\$112)	8	0	26
Mid Fuel Cost	High CO ₂	(\$401)	(\$1,315)	\$1,452	(\$265)	8	0	22
Low Fuel Cost	Low CO ₂	\$8	(\$1,315)	\$1,452	\$145	8	0	NA
Low Fuel Cost	Mid CO ₂	(\$82)	(\$1,315)	\$1,452	\$54	8	0	NA
Low Fuel Cost	High CO ₂	(\$232)	(\$1,315)	\$1,452	(\$96)	8	0	27

Source: (EXH 46, BSP 322)

Low-income Carve-out

Customer classes (e.g. residential, commercial, industrial, etc.) are determined by their electric usage characteristics. The proposed Program has set aside 37.5 MW for low-income customers that will begin with Project 3 (billing date of February 2021). (TR 136) The proposed tariff itself does not contain this information or any other allocation values. The proposed tariff defines a low-income participant, a sub-set of the residential customer class, as those customers whose income is at or below 200 percent of the federal poverty level. (Attachment 1; EXH 46, BSP 335) The proposed tariff also provides the low-income participant with an immediate fixed bill reduction of \$0.70/kW-month. In its Petition, FPL estimates that a 5 kW subscription would equal 100 percent of an average annual residential customer's energy usage. (EXH 38, BSP 122) Therefore, if a low-income customer subscribed for 5 kW, the estimated monthly bill reduction for the low-income participant would be \$3.50 per month for the duration of their participation. The 37.5 MW allocated capacity would equate to approximately 7,500 low-income customers. (EXH 46, BSP 335) FPL witness Valle confirmed that FPL has more than 7,500 low-income customers. (TR 136) FPL has proposed that the credits paid to all participants be collected through its fuel adjustment clause. (TR 344) As such, the general body of ratepayers, including non-participating low-income customers, will be paying for this direct bill reduction.

The Commission has had little opportunity to discuss preferential treatment to low-income customers in the past, but other states have, and they have come to different conclusions, demonstrating that whether a preferential rate for low-income customers is "undue" is an open question. *Compare Am. Hoechst Corp. v. Dep't of Pub. Utils.*, 399 N.E.2d 1, 3-5 (Mass. 1980) (allowing preferential rates to low-income seniors on an experimental basis) *with Mtn. States Legal Found.*, 590 P.2d at 498 (disallowing preferential rates to low-income seniors and low-income disabled customers). As discussed above, this determination is fact-intensive. Thus, the Commission must decide whether the record evidence warrants preferential rates for a small subset of FPL's low-income ratepayers.

Costs Not Fully Funded by Participants

The evidence indicates that the proposed tariff would provide FPL with an alternative funding mechanism that accelerates the development of solar generation. As discussed above, voluntary tariffs have traditionally provided a response to certain customer demands for a certain type of product while holding the general body of ratepayers harmless. FPL's existing SolarNow program is consistent with this policy and is designed to hold non-participating customers harmless from any increased expenses while the fuel saving benefits are realized equally among all ratepayers.¹² Unlike prior Commission decisions regarding voluntary tariffs, the participating customers of the proposed Program would not pay the full cost of the Program. For example, the administrative costs of approximately \$11.5 million would be booked as a base rate expense for FPL's surveillance reporting. (TR 322, 324) Also, the cumulative present value of revenues to be collected from participating customers is \$1.3 billion (72.9 percent) of the \$1.8 billion associated with the 1,490 MW of solar generation. (EXH 42, BSP 281) FPL witness Bores explained that:

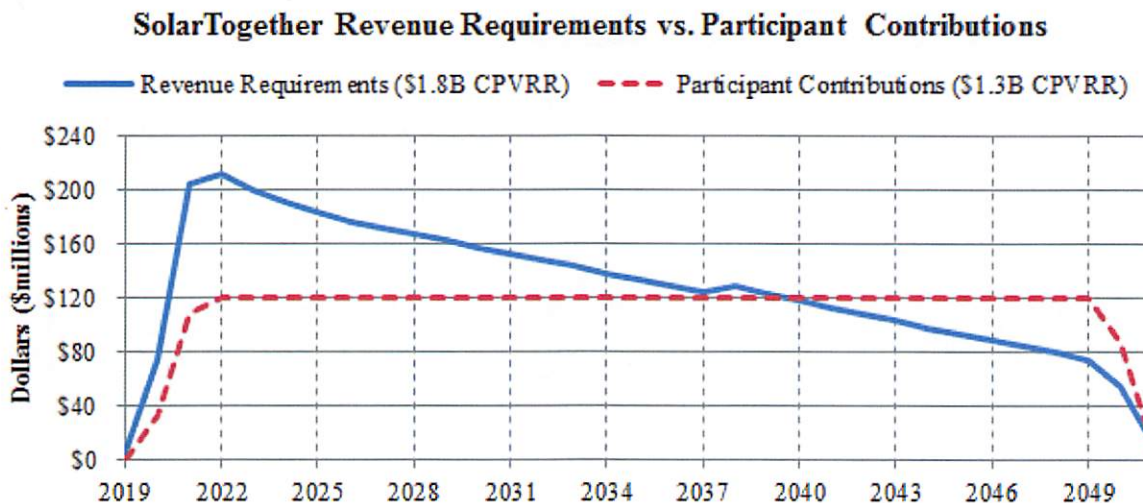
¹²Order No. PSC-2014-0468-TRF-EI, issued August 29, 2014, in Docket No. 20140070-EI, *In re: Petition for approval of voluntary solar partnership pilot program and tariff, by Florida Power & Light Company.*

. . . We are levelizing this revenue requirement. And if you think about a revenue requirement, it normally declines over time. Right. So we -- to minimize the day-one charge and make it, quote-unquote, "economical" and encourage and meet the needs of the customers here, we have levelized that charge. So, in the short term, there will be a difference between the levelized charge to the participants and the actual revenue requirement that will sit in rate base that will turn around over the life of the project . . .

(TR 410)

The line graph below shows that in 2022 there will be a revenue deficiency of approximately \$90 million paid for by the general body of ratepayers. (EXH 39, Amended Interrogatory No. 190, Attachments 4 and 5) These revenue deficiencies gradually decrease and may be addressed at each subsequent rate proceeding.

Figure 2-1



Source: (EXH 39, Amended Interrogatory No. 190, Attachments 4 and 5)

OPC contends that the participating customers of the proposed Program would not cover the full cost of the Program and that FPL's claims that participants pay 100 percent or more of Program costs, or that non-participants pay none of the Program costs, are misleading. OPC argues that FPL is seeking recovery of the entire cost of the Program, which is forecasted to be \$1.8 billion. In contrast, OPC notes that participants would only contribute \$1.3 billion, a \$0.5 billion shortfall that would have to be made up for by the general body of ratepayers, 97 percent of whom would be non-participants. (OPC BR 10-11)

Staff observes that such a disparity in the magnitude of savings and the relative payback shifts the majority of risk to the general body of ratepayers, which may be unduly discriminatory. To cover 100 percent of the costs associated with the solar facilities, the participating customer charge would have to be increased from \$6.76/kW-month to \$9.23/kW-month. (EXH 42, BSP 281; EXH 46, BSP 328) Staff recommends that such a disparity in the allocation of costs is

inconsistent with the Commission's policy to hold non-participating customers harmless when offering a voluntary tariff for a special service.

Alternative to Net Metering

FPL witness Valle discussed the Program as an alternative to net metering, especially for those customers who are unable or unwilling to do so. (TR 49) Under a traditional net metering arrangement, a customer would shoulder the full capital cost and construction risk of installing solar generation on their premise. (TR 143-144) The customer would not be able to transfer the solar facilities to another location and the payback would be affected by the performance of the solar facilities and future utility fuel and emission costs. (TR 144-145) According to witness Valle, such a traditional net metering arrangement should have a payback of between 10 to 12 years. (TR 688) Under the proposed Program and associated tariff, participants face no upfront capital or maintenance costs, and may exit the Program with one month's notice. (TR 146-147) Furthermore, the subscription charges and credits were designed by FPL to give an essentially guaranteed payback period of eight years. (TR 323; EXH 46, BSP 322) Participants would also be eligible to transfer their participation to a new location within FPL's service territory. (TR 61) Overall, compared to traditional net metering, the Program offers reduced risk and increased and essentially guaranteed rewards for participants. (TR 146)

The Utility is impacted by traditional net metering in that it would have lower energy and/or demand sales, producing less overall revenue. (TR 74) While the Utility's energy costs would be offset by reduced fuel costs, base rates would not be offset. These base rate reductions would be taken into account at the Utility's next base rate proceeding, in which the Utility's fixed costs would have to be spread across a smaller amount of demand and energy sales resulting in an increase of base rates to the general body of ratepayers. (EXH 38, BSP 70-71) Under the proposed tariff, FPL would not see any reduction in kWh sales or revenues between rate cases. (EXH 38, BSP 71) The subscription charge would also reduce base rate risks for the Utility as it is recovered on a fixed monthly basis similar to the customer charge, rather than on an energy or demand basis for traditional generation additions.

As risks decrease for the participants and the Utility, they increase for the general body of ratepayers. As the SolarTogether facilities would be included in FPL's rate base, the general body of ratepayers would be responsible for the capital, construction, O&M and other costs. The general body of ratepayers would also see an immediate increase in rates from the subscription credits through the fuel clause. (EXH 38, BSP 149) As the subscription credits are based on a forecast of benefits over the full life of the units, the general body of ratepayers have all fuel and emissions costs risks shifted to them from the participants. As such, the Program and proposed tariff shifts the majority of risk associated with traditional net metering to the general body of ratepayers and may be unduly discriminatory.

Subsequent Participant Allocation

In response to staff interrogatory number 65, FPL stated that approval of the Program would "include FPL's right to reallocate capacity among customer groups..." and that over time as "customer attitudes and behaviors change, increasing the allocation to or near 100 percent may be appropriate." Such a reallocation would not require Commission approval according to FPL. (EXH 38, BSP 126-127; EXH 38, BSP 184) Approving FPL's request would grant the Utility

complete discretion to unilaterally reallocate the Program's capacity between residential and large commercial/industrial customers. FPL did acknowledge that it would notify the Commission in that event. (EXH 38, BSP 126) However, such a reallocation could occur hours or days after the initial web-site offering to residential and small business customers. Since the proposed tariff is in response to customer desires and not cost of service, staff recommends that allowing FPL to unilaterally reallocate Program capacity values could compound the discriminatory/preferential issues discussed above.

Summary of Joint Movants' Alleged Program Benefits

While staff recommends that the Program and proposed tariff not be approved because there appears to be an undue preference, the Commission must determine whether the SolarTogether Program, as a whole, is in the public interest. This determination should be made by assessing whether the Program and proposed tariff provide undue or unreasonable differential treatment between participants and non-participants and that all ratepayers are fairly charged for this Program.

FPL, SACE, Vote Solar, and Walmart argue that the proposed tariff and Program are in the public interest. Some of the alleged benefits are listed below.

- The 20 solar projects result in gains in fuel diversity and less reliance on fossil fuel and decreases in system emissions, including CO₂. (TR 299, 588)
- The addition of 1,490 MW of solar-powered generation is expected to decrease FPL's annual average use of natural gas by 21,600 million cubic feet. (TR 227-228)
- The Program's facilities are projected to add 735 MW of firm capacity at the time of summer peak. (TR 224, 234)
- The Program is consistent with the Legislative findings in Section 366.92, F.S., that it is in the public interest to promote the development of renewable energy resources. (FPL BR 21; SACE BR 6; TR 600)
- The Program will expand customer access to clean energy. (TR 599-600, 630)
- For participants, the Program is voluntary, has no long term commitment, and is portable within FPL's service territory. (TR 50, 61, 588, 631-632)
- Approximately 7,500 low-income customers will have access to solar with no premium and day one bill savings. (TR 136, 589-590, 599, 634)
- The Program removes the barriers associated with private rooftop solar systems. (TR 81)
- The Program provides "payback period" certainty to customers who cannot afford solar panels or do not have ownership of, or access to, a roof for the installation of panels. (TR 686, 688-89)
- Participants have the option to have the RECs associated with their subscription retired on their behalf, thus allowing them to claim the environmental attributes. (TR 61, 612, 624)

Conclusion

The Commission must weigh the record evidence and decide whether the SolarTogether tariff grants an undue preference to any group of customers or subjects any other group to an undue disadvantage. The record evidence demonstrates that the Program and tariff, as proposed, would place additional financial risks on the general body of ratepayers while insulating the Utility and participating customers from such risks. As such, staff recommends that rate schedule STR gives an undue preference to participants and subjects the general body of ratepayers to an undue disadvantage.

Issue 3: Should the Commission allow recovery of all costs and expenses associated with FPL's proposed SolarTogether Program in the manner proposed by FPL?

Recommendation: No. The Commission should not approve any cost recovery at this time. FPL's 2019 TYSP, which includes over 1,700 MW of future solar generation by 2022, is the least-cost plan resulting in the lowest levelized system average electric rate for all of FPL's general body of ratepayers. Projects 1, 2, and 3, approximately 900 MW of FPL's proposed SolarTogether Program, are consistent with FPL's 2019 TYSP. Therefore, even if the proposed tariff is not approved, it appears that constructing Projects 1, 2, and 3 would be cost-effective additions to FPL's system that would benefit all customers. FPL may seek cost recovery of these facilities at its next base rate proceeding under current regulatory policies and procedures.

If the Commission approves the Program and rate Schedule STR, staff recommends that the participant credits be recorded as a base rate expense. Such treatment would provide participants the same benefits as proposed by FPL, but more closely reflect the current risks to the general body of ratepayers and FPL associated with traditional net metering. (Ballinger, Simmons, Trierweiler, Mouring, Fletcher)

Position of the Parties:

FPL: Yes. The Program's net base revenue requirements will be recovered through base rates and, over the life of the Program will be paid for by the participants. The Subscription Benefit consists of fuel and emission benefits, and therefore will be recovered through FPL's fuel cost recovery clause.

OPC: Regardless of the ultimate decision on the SolarTogether Program, the Commission should affirmatively reject FPL's efforts to bulk up rate base by subverting the dollar threshold of Rule 25-6.0141, F.A.C. through the use of an unauthorized bundling of discrete construction projects.

FIPUG: FIPUG did not file a brief.

SACE: Yes. The Settlement Agreement filed in this docket on October 9, 2019 between FPL, SACE, Vote Solar, and Walmart fully resolves all matters between the referenced parties and provides numerous benefits to both participants and the general body of customers, and is therefore in the public interest. See Issue 4

VOTE

SOLAR: Yes.

WALMART: Walmart believes the costs and expenses should be recovered as set forth in the proposed Settlement Agreement.

Parties' Arguments

FPL

FPL states that its SolarTogether Program is cost-effective and projected to generate \$249 million in CPVRR customer savings. (FPL BR 7) Based on the testimonies of FPL witnesses Brannen and Sim, FPL asserts that it has demonstrated that the cost for its 20 SolarTogether facilities is reasonable and the solar generation is cost-effective. (FPL BR 10) Specifically, the projected capital cost for the SolarTogether Projects is \$1,202/kW, which is below the 2020 SoBRA project capital cost of \$1,378/kW. (FPL BR 10-11) To ensure the reasonableness of its capital costs, FPL undertook a competitive bidding process from late 2018 through 2019 for the equipment to be installed and work to be performed at the solar facilities. (FPL BR 11-13) Moreover, asserts FPL, its economic analyses established that the resource plan with the proposed SolarTogether generation of 1,490 MW is cost-effective as compared to not constructing these solar facilities, saving customers an estimated \$249 million. FPL explains that other than recognizing characteristics particular to solar generation, the cost-effectiveness analysis methodology used in this proceeding by FPL is the same methodology FPL uses in all of its resource planning analyses that it presents to the Commission. (FPL BR 9-10, 13-14)

FPL contends the net base revenue requirements would be recovered through base rates and, over the life of the Program, would be paid for by the participants. The subscription benefit consists of fuel and emission benefits, and therefore would be recovered through FPL's fuel clause, partially offsetting system savings resulting from the addition of the Program's facilities. Upward rate impacts will be modest and short-term. All costs would be reflected in FPL's earnings surveillance reports. (FPL BR 9, 38)

Last, FPL disagrees with OPC's argument that it has implemented an "unchecked effort to build rate base" by accruing Allowance for Funds Used During Construction (AFUDC) for SolarTogether Projects 1 and 2. FPL contends that it has reasonably and consistently applied the criteria in the Commission's rule and FPL's policy to accrue AFUDC where appropriate (i.e., SolarTogether Projects 1 and 2) and not accrue AFUDC where it is not appropriate (i.e., SolarTogether Projects 3, 4, and 5). FPL also employs criteria from its AFUDC accounting policy to determine if a project consisting of multiple sites constitutes a single project or multiple projects. The key criteria from this policy are: 1) all sites grouped as a project must have the same Engineering, Procurement, and Construction (EPC) contractor to manage the project; and 2) all sites have a defined start of construction and single scheduled in-service date. (FPL BR 36-37)

OPC

OPC argues that the Commission should reject FPL's efforts to increase rate base and depreciable plant in service in this case and others by the use of a self-serving, internal utility-interpretation of a Commission rule. Specifically, it contends that the AFUDC Rule was designed to provide certainty and protect customers from a utility's imposition of excessive accrual of carrying costs on future generations of customers. As a result of discovery in this docket, it became apparent that FPL has been applying – and intends to apply in the future – the concept of bundling disparate work activities that are historically and traditionally evaluated individually in order to add carrying costs to rate base. (OPC BR 14)

OPC argues that the AFUDC Rule was not intended to create opportunities to creatively stitch far-flung construction activities together to boost rate base. Moreover, FPL, which has the burden of proof to demonstrate the prudence of the costs for which it seeks recovery, failed to demonstrate that the Commission's AFUDC Rule allows or even contemplates "bundling." (OPC BR 16) The AFUDC Rule has two fundamental criteria – a dollar value threshold (0.05% of plant) and a duration threshold (greater than one year). OPC asserts that no utility should be allowed unfettered ability to render these criteria irrelevant by bundling. The act of bundling renders the dollar value threshold meaningless. The threshold was clearly intended to ensure that smaller projects would not be eligible for AFUDC; but instead, smaller projects would be included in the 13-month average construction work in progress (CWIP) balance. (OPC BR 16-17)

Specifically, as it relates to the SolarTogether bundling, OPC contends that FPL initially proposed that the Commission allow AFUDC to be added to rate base for the entire 20 projects included in the Program. This approach was revised to only apply to six of the 20 projects. OPC argues that these six projects were clearly bundled in groups of three because one or two on their own or combined would not meet the \$243.4 million threshold. When bundled and recast as a single three-site "project," the individual projects just barely exceed the threshold. (OPC BR 17)

Last, OPC asserts that the Commission should reject FPL's "accounting sleight of hand" along with the Program. Moreover, the Commission should only consider this practice (bundling), if at all, in the context of a rulemaking proceeding. (OPC BR 19)

SACE

SACE did not specifically address recovery of costs for the SolarTogether Program in its brief, but rather argues that the Commission should approve the Settlement Agreement filed on October 9, 2019, that resolves all issues between FPL, SACE, Vote Solar and Walmart. SACE argues that the Commission is afforded great deference to determine that a settlement agreement between parties is in the public interest and that it has been presented with substantial, competent evidence during the hearing upon which to make a public interest determination. SACE contends that the SolarTogether Program fairly and reasonably allocates benefits to all customers. As such, SACE requests that the Commission approve the Settlement Agreement in its entirety and notes that the Commission is not precluded by statute or case law from approving nonunanimous settlements. (SACE BR 4-5)

Vote Solar

Vote Solar did not provide an argument specific to this issue. (Vote Solar BR 4)

Walmart

Walmart did not provide issue-specific arguments in its brief but stated, "Walmart believes that the proposed Settlement Agreement, including the SolarTogether Settlement Tariff, is a reasonable compromise of the Settling Parties' different positions in this case and is otherwise in the public interest." (Walmart BR 2)

Analysis

FPL has stated that if the Program and proposed tariff are not approved, it is still committed to constructing Projects 1 and 2. (EXH 38, BSP 162) In addition, the evidence in the record suggests that Projects 1, 2, and 3 are consistent with units identified in FPL's 2019 TYSP and would satisfy FPL's planning reserve margin criterion for the years 2020 and 2021. (EXH 30; EXH 39, Amended Interrogatory No. 190, Attachments 1 and 2) The evidence is also clear that the Program would result in the acceleration of approximately 600 MW of solar generation from 2022 to 2021, which are Projects 4 and 5. Staff requested an economic analysis of this acceleration through staff's interrogatory number 241. (EXH 47, BSP 341-344) FPL filed its response to this discovery request on November 20, 2019. The first paragraph of FPL's response states:

[T]he analysis requested in Interrogatory No. 241 consists of a new economic evaluation that cannot be performed in the time allowed for service of discovery responses. The requested new economic analysis effectively asks for a comparison of FPL's 2019 Ten Year Site Plan (TYSP) against the SolarTogether Plan. It is important to observe that the solar additions shown in the SolarTogether Plan are essentially the same as the early year solar additions in the TYSP, except that approximately 600 MW of solar planned in early 2022 in the TYSP are built in 2021 for the purposes of SolarTogether, likely less than one year early, principally to meet broad customer interest in the participation of solar development through this unique Program. As such, FPL believes the plan is consistent with the 2019 TYSP, and notes that if the cost of PV panels or associated import tariffs were to increase, or if the labor market for solar construction continues to tighten, a delay in the decision to construct these units could result in forgone savings for participants and non-participants alike.

(EXH 47, BSP 344)

In response to staff's interrogatory number 258, filed on December 11, 2019, FPL further clarified its response to interrogatory number 241 and states:

. . . although no actual calculation of the projected economics of such a comparison has been performed, FPL believes it would be reasonable to expect, assuming base case assumptions, that the acceleration of this solar generation would result in a relatively slight increase in CPVRR costs if construction costs remain as currently projected.

(EXH 51, BSP 371)

Acceleration of Projects 4 and 5 would increase FPL's solar net energy for load from 4.46 percent in 2021 to 5.31 percent 2021. (EXH 68) FPL did not produce an economic analysis of this acceleration as discussed above. Therefore, staff recommends that FPL has demonstrated that Projects 1, 2, and 3 are cost-effective generation additions, but the incremental cost of accelerating Projects 4 and 5 has not been supported in the record. By continuing to adhere to the

principles of least-cost planning and cost of service allocation, FPL can add approximately 900 MW of solar generation to its system for the benefit of all customers and request recovery of these costs at a subsequent base rate proceeding. If the proposed tariff is not approved, it appears that constructing Projects 1, 2, and 3 would be cost-effective additions to FPL's system that would benefit all customers.

Allowance for Funds Used During Construction (AFUDC)

Pursuant to Rule 25-6.0141, Florida Administrative Code (F.A.C.), AFUDC is a regulatory concept that allows for the deferral and ultimate recovery of carrying costs associated with the construction of large capital additions that would not be supported by the CWIP balance included in rate base in the Utility's last base rate case. As discussed previously, the Utility has proposed to construct 20 new solar generating facilities with a design capacity of 74.5 MW each. (TR 105) With a design capacity of less than 75 MW each, FPL argues that each of these solar generating facilities is exempt from the siting requirements of the PPSA¹³ and do not require a need determination from this Commission. (TR 406) For purposes of its filing, FPL has grouped these 20 discrete solar generating facilities into five projects. (TR 363-364; EXH 69) In the instant case, because SolarTogether Projects 1 and 2 utilize a common EPC contractor, FPL has asserted that SolarTogether Projects 1 and 2 are eligible to accrue AFUDC.¹⁴ (TR 379; EXH 69) The estimated annual revenue requirement impact of AFUDC for Projects 1 and 2 is \$2.35 million. (TR 407; EXH 48, BSP 349)

Staff agrees with the Utility that in total, the overall capital expenditures of the six discrete solar generating facilities that make up Projects 1 and 2 do constitute large capital additions and satisfy the eligibility requirements in Rule 25-6.0141, F.A.C., to accrue AFUDC.¹⁵ (TR 379; EXH 69) For FPL, the current threshold of investment that is eligible to accrue AFUDC is approximately \$243 million. (TR 363) However, staff does have concerns about the Utility's policy of fragmenting large capital projects to circumvent the siting requirements of the PPSA and Commission need determinations, and the subsequent bundling of the same capital additions for AFUDC purposes. (TR 105-106, 363) The PPSA uses the term "electrical power plant" to describe new generating assets, whereas the AFUDC Rule uses the term "project" to describe large capital additions. (EXH 48, BSP 351) The PPSA defines an "electrical power plant" as "any steam or solar electrical generating facility using any process or fuel, including nuclear," but the AFUDC Rule does not define what specifically constitutes a "project." (Section 403.503(14), F.S.; EXH 48, BSP 351)

Staff believes that the deferral and recovery of these carrying costs, without the oversight and transparency of vetting a large capital addition through the PPSA and a Commission need determination proceeding is troublesome. Further, staff believes that it would be advisable to

¹³See FN 2.

¹⁴The Utility's original petition, filed March 13, 2019, included the accrual of AFUDC for all five SolarTogether Projects, but was amended to exclude Projects 3, 4, and 5 in the revised petition filed September 23, 2019. Projects 3, 4, and 5 are no longer expected to utilize a common EPC contractor, and thus no longer met FPL's internal accounting policy. (EXH 48, BSP 351)

¹⁵Rule 25-6.0141, F.A.C., requires that in order for projects to be eligible to accrue AFUDC they must involve plant additions in excess of 0.5 percent of the total balances in FERC Account 101 and 106, and are expected to be completed in excess of one year after construction commences.

open rulemaking for Rule 25-6.0141, F.A.C., to address the issue of bundling projects and to define what constitutes a project for purposes of accruing AFUDC.

Options to Program as Proposed

FPL argues that the proposed Program and associated tariff would be the next step forward in promoting Florida's energy policy contained in Section 366.92, F.S., which is to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; encourage the development of renewable generation; improve fuel diversity; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers. (FPL BR 21) As discussed in Issue 2, staff recommends that the proposed Program and associated tariff results in an undue preference to participants, and subjects the general body of ratepayers to an undue disadvantage. However, the evidence also indicates that FPL's customers desire additional development of solar generation. FPL witness Valle agreed that if solar generation is added to FPL's system and recovered through traditional rate-making, all customers will receive benefits. (TR 131-132) Therefore, during cross examination, staff explored various options to encourage the development of solar generation for the benefit of all customers that did not require the proposed tariff to be implemented. Such options would be consistent with the intent of Section 366.92, F.S., and also avoid any semblance of an undue preference. These options included classifying the solar facilities as a regulatory asset or creating a recovery mechanism similar to ones approved in recent SoBRA settlement agreements. While FPL agreed that such options would encourage the development of solar generation, it did not support such action as it would not be responsive to the primary purpose of the Program, which is to address "the needs of customers who cannot or do not want to own a net metering system, but are seeking a direct bill credit." (TR 49)

Also, as discussed in Issue 2, FPL witness Valle agreed that if a customer were to net meter, FPL would see a decline in revenues due to reduced sales. He also agreed that, in FPL's next base rate proceeding, the impact from the reduced sales would be reviewed and rates for the general body of ratepayers would be adjusted as needed. (TR 148) Staff also explored the option of having the participant credits recorded as a base rate expense item rather than allowing immediate recovery through FPL's fuel clause. In short, such action would approve the STR tariff as filed, but change the way FPL proposed to recover the costs. (TR 411-413) Such treatment would delay the explicit recovery of the credits until FPL's next base rate proceeding, much like a current net metering customer, but FPL would retain the risk of interim lost revenues. The estimated annual credits for 2020 are \$31.7 million and \$105.1 million for 2021. FPL witness Bores agreed that participating customers would be unaffected and that FPL would bear the risk of these costs until its next rate case. (TR 413) If the Commission approves rate schedule STR as proposed, staff recommends that the participant credits associated with proposed rate schedule STR be recorded as a base rate expense. Such treatment would provide participants the same benefits as proposed by FPL but more closely reflect the current risks to the general body of ratepayers and FPL associated with traditional net metering.

Conclusion

The Commission should not approve any cost recovery at this time. FPL's 2019 TYSP, which includes over 1,700 MW of future solar generation by 2022, is the least-cost plan resulting in the lowest levelized system average electric rate for all of FPL's general body of ratepayers. Projects 1, 2, and 3, approximately 900 MW of FPL's proposed SolarTogether Program, are consistent with FPL's 2019 TYSP. Therefore, even if the proposed tariff is not approved, it appears that constructing Projects 1, 2, and 3 would be cost-effective additions to FPL's system that would benefit all customers. FPL may seek cost recovery of these facilities at its next base rate proceeding under current regulatory policies and procedures.

If the Commission approves the Program and rate Schedule STR, staff recommends that the participant credits be recorded as a base rate expense. Such treatment would provide participants the same benefits as proposed by FPL, but more closely reflect the current risks to the general body of ratepayers and FPL associated with traditional net metering.

Issue 4: Should the Commission approve FPL's proposed SolarTogether Program and associated tariff, Rate Schedule STR, which is the same tariff attached as Attachment I to the Settlement Agreement filed October 9, 2019?

Recommendation: No. See discussion in Issues 1, 2, and 3. (Ballinger, Simmons, Trierweiler)

Position of the Parties:

FPL: Yes. The Settlement represents a reasonable compromise and fully resolves all issues raised in this proceeding. Considered as a whole, the settlement is in the public interest: the Program responds to a significant customer need, is cost-effective, results in just, fair and reasonable rates, and advances Florida's renewable energy policy.

OPC: No. OPC adopts its discussion in Issues 1, 2 and 3 above.

FIPUG: FIPUG did not file a brief.

SACE: Yes. The Settlement Agreement filed in this docket on October 9, 2019 between FPL, SACE, Vote Solar, and Walmart fully resolves all matters between the referenced parties and provides numerous benefits to participants, the general body of customers and the state, and is therefore in the public interest.

VOTE

SOLAR: Yes. The Commission should approve the tariff attached as Attachment I to the Settlement Agreement filed October 9, 2019.

WALMART: Yes. The Commission should approve the tariff attached as Attachment I to the Settlement Agreement filed October 9, 2019.

Parties' Arguments

FPL

FPL contends the Program and the proposed tariff are in the public interest and should be approved. (FPL BR 3) In evaluating whether a settlement is in the public interest, argues FPL, the Commission should lean toward innovation and constructive regulation that is responsive to the needs of customers and open to new, innovative ways to capture benefits for all customers. The legal standard for the Commission's determination is whether the settlement agreement is in the public interest. (FPL BR 17) FPL asserts that the Commission has broad discretion in deciding what is in the public interest, and it may consider a variety of factors in reaching its decision. (FPL BR 17)

FPL contends that with the instant Settlement Agreement, there are multiple considerations and benefits which support a finding that the SolarTogether Program as outlined and described in the Settlement Agreement is in the public interest: (1) the Program provides an innovative, voluntary

community solar option that is responsive to the demands of residential and business customers who wish to or have already subscribed to the Program while bringing benefits to all FPL customers; (2) the costs of the Program have been fairly and reasonably assigned; (3) the resulting rates under the Program are fair, just and reasonable; (4) the Program makes community solar available to low-income customers; (5) the Program provides material environmental benefits through substantial carbon emission reductions; (6) the Program will provide enhanced fuel diversity which mitigates risks for all FPL customers; and (7) the Program as defined under the Settlement Agreement furthers the public interest goals of the Florida Legislature to encourage the development of renewable energy resources in the state. (FPL BR 39)

Furthermore, through the proposed tariff FPL contends that access to solar will be afforded to customers who might never have imagined they would have the financial means to participate. The Settlement Agreement signatories agreed to set aside 37.5 MW of the Program's capacity for low-income customers, creating the opportunity to directly participate in solar for thousands of low-income households, more than any other solar program in the country. (FPL BR 22)

Last, FPL argues that contrary to OPC's assertion that the proposed tariff violates the base rate freeze provision of the 2016 Rate Settlement, nothing in its 2016 Rate Settlement Agreement prohibits approval of the SolarTogether Program and proposed tariff. FPL contends that it repeatedly confirmed that base rates would not increase as a result of SolarTogether during the term of the Rate Settlement, currently expected to remain in place through 2021. (FPL BR 28-29)

OPC

No. OPC adopts its discussion in Issues 1, 2 and 3 above. (OPC BR 20)

SACE

SACE argues that the Commission should approve the Settlement Agreement filed on October 9, 2019. SACE contends that the Commission is afforded great deference to determine that a settlement agreement between parties is in the public interest and that it has been presented with substantial, competent evidence during the hearing upon which to make a public interest determination. (SACE BR 4)

As a threshold matter, explains SACE, Florida statute provides that "unless precluded by law, informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order." Moreover, SACE argues the Commission is not precluded by statute or case law from approving nonunanimous settlements. The Commission's determination of whether to approve a settlement agreement is based on the public interest, and the determination of public interest rests exclusively with the Commission. SACE argues the determination of public interest requires a case-specific analysis based on consideration of the proposed settlement taken as a whole. SACE argues that in this case, the Settlement Agreement is in the public interest based on the benefits that flow from its provisions taken as whole. (SACE BR 5-6)

SACE explains that taken as a whole, the proposed tariff and Program provisions embodied in the Settlement Agreement provide a number of benefits that are clearly in the public interest that

include: expansion of renewable energy through the development of 1,490 MW of clean, renewable power; diversification of the state's fuel mix; a cost-effective Program; allocation of economic benefit to both participants and the general body of ratepayers; prioritizing the customer experience, including expanding participation to low-income families; meeting FPL's resource needs in 2020 and 2021; meeting the enormous customer demand for solar power; and driving state economic development and local job creation. (SACE BR 4-5)

SACE further argues that the Florida Legislature finds that it is in the public interest to promote the development of renewable energy resources. The Florida Legislature has also explicitly stated in Section 366.92(1), F.S., its intent "to promote the development of renewable energy" in order to diversify the types of fuel used to generate electricity in Florida; lessen Florida's dependence on natural gas; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and minimize the costs of power supply to electric utilities and their customers. (SACE BR 6, 12)

Vote Solar

Vote Solar argues that the Commission should approve the SolarTogether Program and proposed tariff as amended by the stipulation filed October 9, 2019, which provides a reasonable resolution of the issues raised by this filing. (Vote Solar BR 4) The SolarTogether Program and proposed tariff is projected to provide an estimated \$249 million in economic benefits and commits FPL to reserve 10 percent of the Program's residential capacity, or 37.5 MW, to low-income customers. The subscription charge for low-income customers will not exceed the subscription credit in any month, providing a critically important safeguard for these consumers. Further, Vote Solar contends that SolarTogether responds to customer demands for clean energy, which are real and immediate and that FPL must respond to these demands if it wants to continue to provide sufficient electric service that meets the evolving needs of customers. Last, the solar resources will further diversify FPL's electric system and mitigate the fuel volatility risks to all customers due to its significant reliance on natural gas. (Vote Solar BR 4-5)

Walmart

Walmart did not provide issue-specific arguments in its brief but stated, "Walmart believes that the proposed Settlement Agreement, including the SolarTogether Settlement Tariff, is a reasonable compromise of the Settling Parties' different positions in this case and is otherwise in the public interest." (Walmart BR 2)

Analysis

FPL, SACE, Vote Solar, and Walmart argue that the Commission should approve the Settlement Agreement and proposed tariff, filed on October 9, 2019, because it is in the public interest. (FPL BR 3; SACE BR 4; Vote Solar BR 4; Walmart BR 2) OPC disagrees and believes the Settlement Agreement and proposed tariff should not be approved. (OPC BR 20) For the reasons discussed at length in Issues 1-3, staff recommends the Commission not approve the Program and proposed tariff, Rate Schedule STR.

Conclusion

The Commission should not approve the proposed Program and associated tariff, Rate Schedule STR, for the reasons discussed in Issues 1-3.

Docket No. 20190061-EI
Date: February 21, 2020

Issue 5

Issue 5: DROPPED

Issue 6: Should this docket be closed?

Recommendation: The docket should be closed once the Commission has issued its final order and the time for appeal has run. (Trierweiler, Simmons)

Position of the Parties:

FPL: Yes. Upon issuance of an order approving FPL's SolarTogether Program and Tariff, this docket should be closed.

OPC: After the Petition is denied, the docket should be closed.

FIPUG: FIPUG did not file a brief.

SACE: No position.

VOTE

SOLAR: Yes. Docket No. 20190061-EI should be closed once the Commission's decisions on all of the issues have become final and the Commission has concluded that the docket has otherwise met the requirements for closure.

WALMART: In accordance with paragraph 8 of the Settlement Agreement, this Docket should be closed effective on the date of a Commission Order approving that the Settlement Agreement is final. Should the Commission not approve the Settlement Agreement, then Walmart takes no position as to this issue.

Parties' Arguments

FPL, OPC, Walmart, and Vote Solar contend that the docket should be closed as set forth in their respective positions.

Conclusion

Staff recommends that the docket be closed upon issuance of the Commission's final order and the time for filing an appeal has run.

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.932

SOLARTOGETHER RIDER
 (OPTIONAL PROGRAM)

RATE SCHEDULE: STR

AVAILABLE:

The FPL SolarTogetherSM Rider ("FPL SolarTogether" or "the Program") is available in all territory served, subject to subscription availability. This optional program allows FPL customers to subscribe to a portion of universal solar capacity built for the benefit of the Program and receive a credit for the actual solar production associated with their subscription.

APPLICATION:

In conjunction with the otherwise applicable metered rate schedule. All rates and charges under the customers' otherwise applicable metered rate schedule shall apply.

MONTHLY SUBSCRIPTION:

The Monthly Subscription shall be equal to the sum of the *Monthly Subscription Charge + Monthly Subscription Credit* as follows:

Monthly Subscription			
Participant		Low Income Participant	
Subscription Charge \$/kWh-Month	Subscription Credit ¢/kWh	Subscription Charge \$/kWh-Month	Subscription Credit \$/kWh-Month
See Sheet No. 8.934	See Sheet No. 8.934	See Sheet No. 8.934	See Sheet No. 8.934

LIMITATION OF SERVICE:

Any customer taking service under a metered rate schedule who has no delinquent balances with FPL is eligible to participate. Eligible customers may elect a subscription level in 1 kW units representing up to 100% of their previous 12-month total kWh usage. Customers at or below 200% of the federal poverty level are eligible for participation at the low income pricing provided by this tariff. Increases in number of units purchased will be limited to once per year and subject to program availability.

BILLING:

Participants are subject to the minimum bill on their otherwise applicable rate schedule. The FPL SolarTogether Monthly Subscription Charge and offsetting Monthly Subscription Credit will appear as separate line items on a participant's bill during every month of enrollment, and are subject to all applicable taxes and fees.

Monthly Subscription Credit amounts may not result in a total bill less than zero (\$0). Any excess credit amounts will be applied in subsequent months to ensure participant total bill amounts meet this requirement.

TERMS OF SERVICE:

Not less than one (1) billing cycle. Participants may, at any time following their first billing cycle, terminate their participation ("Voluntary Termination") or reduce the number of subscribed units purchased. Participants may be terminated from the program by FPL if the customer becomes delinquent on the customer's electric service account or for failure to satisfy eligibility requirements ("Involuntary Termination"). Upon either Voluntary or Involuntary Termination, the account is prohibited from re-enrolling for a twelve (12) month period.

(Continued on Sheet No. 8.933)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
 Effective:

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.933

(Continued from Sheet No. 8.932)

SPECIAL PROVISIONS:

If the customer moves within FPL's service territory, program participation may continue at a new service address with no impact the customer's program enrollment date subject to the limitations and terms outlined above. Notification to transfer participation must be made by the customer to the Company and the Company will have 45 days to complete the transfer.

Upon customer request, FPL will retire the renewable energy certificate (RECs) associated with the customer's subscription. Notification to retire RECs must be made by the customer to the Company. The accumulation of RECs associated with the participant's subscription will begin following notification and FPL will provide participants with REC retirement summary reports periodically throughout the year.

RULES AND REGULATIONS:

Service under this rider is subject to orders of governmental bodies having jurisdiction and to the currently effective "General Rules and Regulations for Electric Service" on file with the Florida Public Service Commission. In case of conflict between any provisions of this schedule and said "General Rules and Regulations for Electric Service" the provisions of this rider shall apply. The participant subscription is neither a security nor an ownership interest in the solar asset and therefore no owned interest is to be surrendered, sold, or traded.

(Continued on Sheet No. 8.934)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective:

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.934

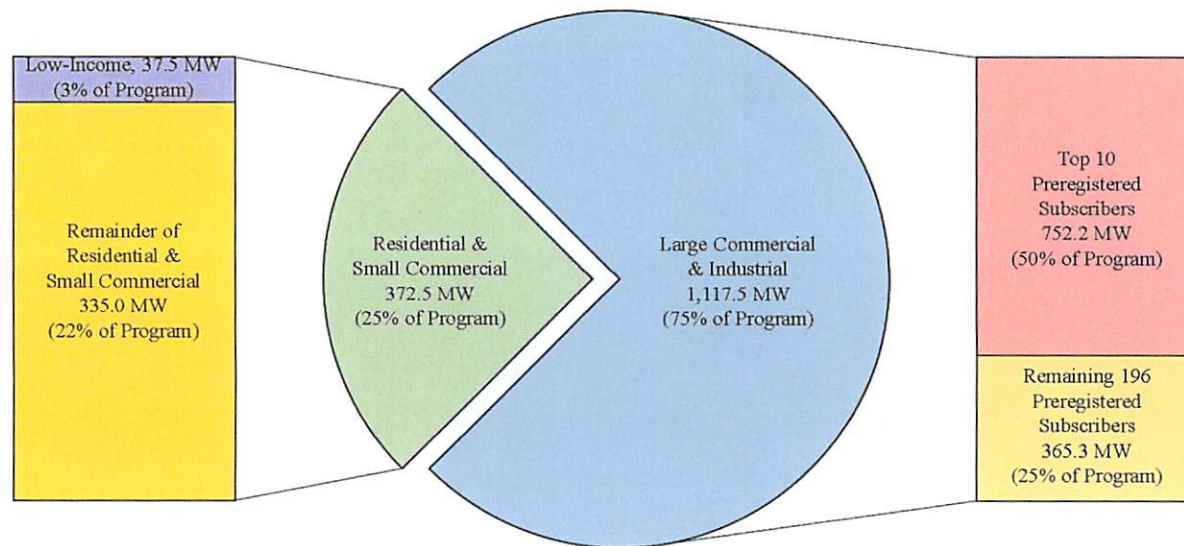
(Continued from Sheet No. 8.933)

MONTHLY SUBSCRIPTION
 FPL SOLAR TOGETHER PARTICIPANT RATES

Participant Program Year	Phase I			
	Participant		Low Income Participant	
	Subscription Charge \$/kW-Month	Subscription Credit ¢/kWh	Subscription Charge \$/kW-Month	Subscription Credit ¢/kWh
1	\$6.76	(3.40468)	\$5.57	\$6.27
2	\$6.76	(3.46256)	\$5.57	\$6.27
3	\$6.76	(3.52142)	\$5.57	\$6.27
4	\$6.76	(3.58129)	\$5.57	\$6.27
5	\$6.76	(3.64217)	\$5.57	\$6.27
6	\$6.76	(3.70409)	\$5.57	\$6.27
7	\$6.76	(3.76706)	\$5.57	\$6.27
8	\$6.76	(3.83110)	\$5.57	\$6.27
9	\$6.76	(3.89622)	\$5.57	\$6.27
10	\$6.76	(3.96246)	\$5.57	\$6.27
11	\$6.76	(4.02982)	\$5.57	\$6.27
12	\$6.76	(4.09833)	\$5.57	\$6.27
13	\$6.76	(4.16800)	\$5.57	\$6.27
14	\$6.76	(4.23886)	\$5.57	\$6.27
15	\$6.76	(4.31092)	\$5.57	\$6.27
16	\$6.76	(4.38420)	\$5.57	\$6.27
17	\$6.76	(4.45873)	\$5.57	\$6.27
18	\$6.76	(4.53453)	\$5.57	\$6.27
19	\$6.76	(4.61162)	\$5.57	\$6.27
20	\$6.76	(4.69002)	\$5.57	\$6.27
21	\$6.76	(4.76975)	\$5.57	\$6.27
22	\$6.76	(4.85083)	\$5.57	\$6.27
23	\$6.76	(4.93330)	\$5.57	\$6.27
24	\$6.76	(5.01716)	\$5.57	\$6.27
25	\$6.76	(5.10245)	\$5.57	\$6.27
26	\$6.76	(5.18920)	\$5.57	\$6.27
27	\$6.76	(5.27741)	\$5.57	\$6.27
28	\$6.76	(5.36713)	\$5.57	\$6.27
29	\$6.76	(5.45837)	\$5.57	\$6.27
30	\$6.76	(5.55116)	\$5.57	\$6.27

Issued by: Tiffany Coben, Director, Rates and Tariffs
 Effective:

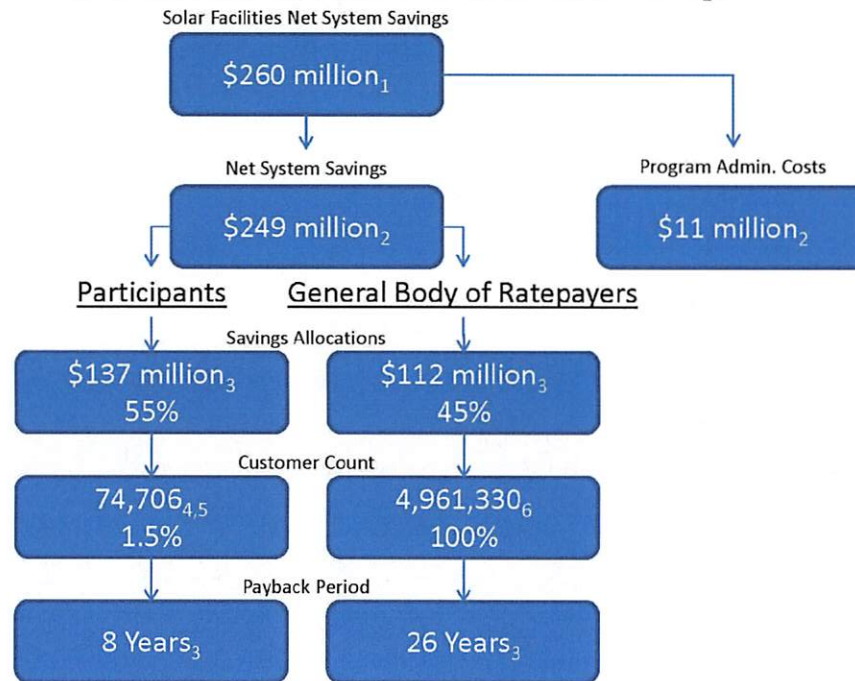
SolarTogether Subscription Availability by Customer Type



Source: FPL's Petition & Response to Staff's First Set of Interrogatories, No. 125

EXH 63

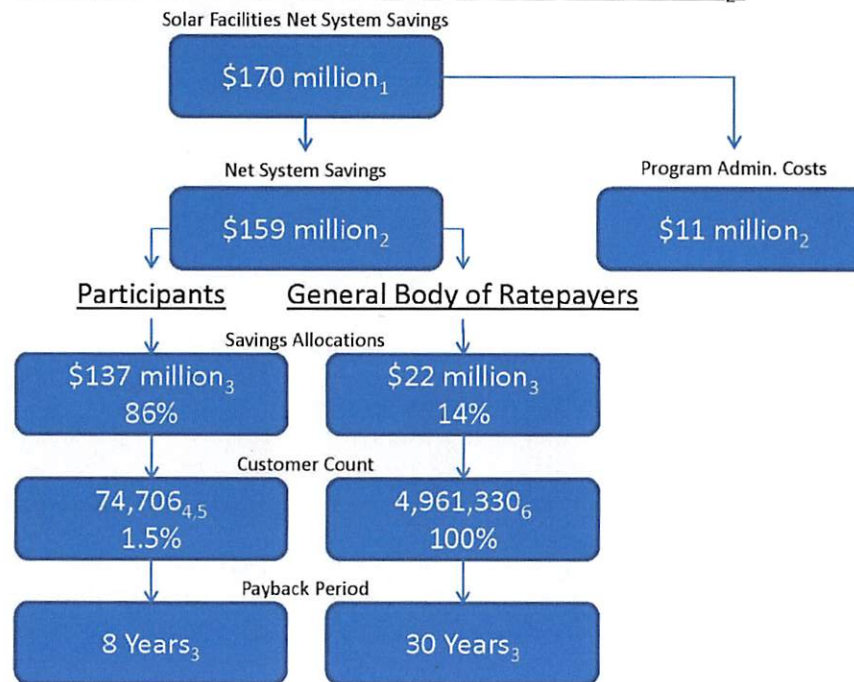
Post-Tariff SolarTogether Savings With Carbon (Mid Fuel/Mid CO₂)



[1] FPL's Response to Staff's Thirteenth Set of Interrogatories No. 254.
 [2] FPL's Amended Response to Staff's Second Set of Interrogatories No. 190.
 [3] FPL's Response to Staff's Ninth Set of Interrogatories No. 237.
 [4] FPL's Response to Staff's First Set of Interrogatories No. 64.
 [5] FPL's Response to Staff's First Set of Interrogatories No. 125.
 [6] FPL's Response to Staff's Second Set of Interrogatories No. 183.

EXH 64

Post-Tariff SolarTogether Savings Without Carbon (Mid Fuel/Low CO₂)



[1] FPL's Response to Staff's Thirteenth Set of Interrogatories No. 254.
 [2] FPL's Amended Response to Staff's Second Set of Interrogatories No. 190.
 [3] FPL's Amended Response to Staff's First Set of Interrogatories No. 237.
 [4] FPL's Response to Staff's First Set of Interrogatories No. 64.
 [5] FPL's Response to Staff's First Set of Interrogatories No. 125.
 [6] FPL's Response to Staff's Second Set of Interrogatories No. 183.

EXH 64

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: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (M. Watts, Doehling) *MW*
Division of Accounting and Finance (Frank, Norris) *JD*
Division of Economics (Sibley) *MS*
Office of the General Counsel (DuVal) *MS JC*

RE: Docket No. 20170114-WU – Application for transfer of facilities and water Certificate No. 165-W in Pasco County from Allen LaFortune and Otis Fonder to A Utility Inc. *ALM*

AGENDA: 03/03/20 – Regular Agenda – Proposed Agency Action for Issue 2 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On May 16, 2017, A Utility Inc. (Buyer or Utility) filed an application for the transfer of Certificate No. 165-W from Allen LaFortune and Otis Fonder (ALOF or Seller) in Pasco County, Florida. According to ALOF's 2018 Annual Report, the water system is a Class C utility serving 119 residential water customers.

The water system was initially built in 1963 to serve the residents of Tropical Trailer Park in Zephyrhills, Florida. The Utility was granted an original certificate in 1974, and was subsequently transferred four times, ultimately to the current certificate holder, ALOF.¹

This recommendation addresses the transfer of the water system, the net book value (NBV) of the water system at the time of transfer, and the appropriateness of an acquisition adjustment. The Commission has jurisdiction pursuant to Sections 367.071 and 367.091, Florida Statutes (F.S.).

¹Order No. 6020, issued February 4, 1974, in Docket No. 1974037-W, *In re: Application of John W. Beeman for a certificate to operate a water utility in Pasco County, Florida*; Order No. 6998, issued November 14, 1975, in Docket No. 1974544-W, *In re: Application for transfer of water utility d/b/a Tropical Utilities and Certificate No. 165-W from John W. Beeman to Fisher Ames and his wife, Helen Ames, in Pasco County, Florida*; Order No. 10151, issued July 21, 1981, in Docket No. 19800253-W, *In re: Application for the transfer of Certificate No. 165-W from Fisher Ames and His Wife, Helen Ames, to Dale Hendryx, in Pasco County*; Order No. 11946, issued May 19, 1983, in Docket No. 19830048-W, *In re: Application for transfer of Certificate No. 165-W from Dale Hendryx to Barbara Cobb in Pasco County, Florida*; Order No. 19163, issued April 18, 1988, in Docket No. 19871156-WU, *In re: Application for transfer of Certificate No. 165-W from Melvin Cobb to Allen LaFortune and Otis Fonder (Tropical Park Water System) in Pasco County*.

Discussion of Issues

Issue 1: Should the application for transfer of Certificate No. 165-W in Pasco County, from Allen LaFortune and Otis Fonder to A Utility Inc. be approved?

Recommendation: Yes, the transfer of Certificate No. 165-W in Pasco County is in the public interest and should be approved effective the date of the Commission's 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 Buyer should be responsible for filing annual reports and paying Regulatory Assessment Fees (RAFs) for 2019 and all future years. (M. Watts, Doehling, Sibley, Frank)

Staff Analysis: On May 16, 2017, A Utility Inc. filed an application for the transfer of Certificate No. 165-W from ALOF 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 January 1, 2017, contingent upon Commission approval, pursuant to Section 367.071(1), F.S.

Noticing, Territory, and Land Ownership

The application contains a description of the water service territory, which is appended to this recommendation as Attachment A. The application also contains a copy of the Warranty Deed to Trustee Under Land Trust and a Land Trust Agreement as evidence that the Buyer has access to the land upon which the water treatment facilities are located pursuant to Rule 25-30.037(2)(s), F.A.C. A Utility Inc. provided notice as required by Rule 25-30.030(5), F.A.C., on April 11, 2019. No objections to the transfer were filed, and the time for doing so has expired.

Purchase and Financing

Pursuant to Rule 25-30.037(2)(j), F.A.C., the application contains a statement regarding financing and documentation of the terms of the transfer, 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 ALOF that must be disposed of with regard to the transfer. According to the Buyer, there was no closing contract involved.² However, all information regarding the terms of the transfer were provided, along with supplemental documentation. According to the Warranty Deed, the total purchase price for the assets is \$117,000. The Buyer also provided a statement acknowledging that the sale is subject to Commission approval.

Facility Description and Compliance

The water treatment system consists of two wells, a bladder tank rated at 220 gallons, and a hypochlorination process for disinfection. The Florida Department of Environmental Protection (DEP) conducted the most recent sanitary survey of the facility on December 12, 2019. Based on observations made and the information provided during the inspection, the system was

²Document No. 01552-2018

determined to be in compliance with the DEP's rules and regulations. In addition, the Utility was found to be in compliance with all secondary water quality standards in the last test performed on May 1, 2018. Additionally, the Utility stated that it received no customer complaints regarding the DEP secondary water quality standards in the previous five years.

Technical and Financial Ability

Pursuant to Rule 25-30.037(2), F.A.C., the application contains statements describing the technical and financial ability of the Buyer to provide service to the proposed service area. The Buyer stated that its President is the current manager of the system, and has been managing it for approximately 30 years. To ensure continued operation of the Utility, the operator and all personnel will be retained in their current roles.

Pursuant to Rule 25-30.037(2)(1), F.A.C., the application contains statements describing the financial ability of the Buyer to provide service to the proposed service area. According to the application, the Buyer has acquired the assets of the Utility. Staff also reviewed the financial statements of the Buyer. Based on the above, staff believes the Buyer has demonstrated the technical and financial ability to provide service to the existing service territory.

Rates and Charges

The Utility currently has a flat rate of \$14.61 per month. The Utility's rates and charges were approved in a staff-assisted rate case in 1989.³ The rates were subsequently amended through ten price index and pass through rate adjustments. The Utility is built out and has no approved service availability charges. The Utility's existing rates and charges are shown on Schedule No. 2. 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 the Commission. Therefore, staff recommends that the Utility's existing rates and charges remain in effect until a change is authorized by the Commission in a subsequent proceeding.

Regulatory Assessment Fees and Annual Reports

Staff has verified that ALOF is current with respect to annual reports and RAFs through December 31, 2018. The Buyer should be responsible for filing annual reports and paying RAFs for 2019 and all future years.

Conclusion

Based on the foregoing, staff recommends that the transfer of Certificate No. 165-W in Pasco County is in the public interest and should be approved effective the date of the Commission's 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, F.A.C. The Buyer should be responsible for filing annual reports and paying RAFs for 2019 and all future years.

³Order No. 21652, issued August 2, 1989, in Docket No. 19881601-WU, *In re: Application of Allen LaFortune and Otis Fonder for staff-assisted rate case in Pasco County.*

Issue 2: What is the appropriate net book value for A Utility Inc.'s water system for transfer purposes and should an acquisition adjustment be approved?

Recommendation: The NBV of the water system for transfer purposes is \$9,367 as of January 1, 2017. An acquisition adjustment should not be included in rate base. Within 90 days of the date of the final order, A Utility Inc. 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 A Utility Inc.'s 2019 Annual Report when filed. (Frank)

Staff Analysis: Rate base was last established as of December 31, 1989.⁴ The purpose of establishing NBV 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 Utility's NBV has been updated to reflect balances as of January 1, 2017. Staff's recommended NBV, as described below, is shown on Schedule No. 1.

Utility Plant in Service (UPIS)

The Utility's general ledger reflected a UPIS balance of \$97,700 as of January 1, 2017. Staff reviewed UPIS additions since the last rate case proceeding, including additional documentation provided after the audit, and has decreased UPIS by \$43,107. Staff notes that subsequent to the staff audit report, the Buyer provided a breakdown of NBV which included a component of plant based on customer value. The Buyer assigned a value of approximately \$300 to each customer using a calculation that applied a 10 percent rate of return, as reflected in the Utility's last rate case, to the flat rate charge as of January 1, 2017, and creating an amortization schedule over ten years. The customer value calculation totals \$35,100 (\$300 x 117 customers). Staff did not include this valuation in the calculation in NBV because customer value is not an asset considered in rate base. Therefore, staff recommends that the Utility's UPIS balance as of January 1, 2017, is \$54,593.

Land

The Utility's general ledger reflected a land balance of \$19,300. The Commission's previous order, mentioned above, reflected the original cost of land at \$1,000. There have been no additions to land since the last rate case. As such, land should be decreased by \$18,300. Therefore, staff recommends a balance for land of \$1,000 as of January 1, 2017.

Accumulated Depreciation

The Utility's NBV calculation did not reflect accumulated depreciation. Staff calculated accumulated depreciation of plant since 1990 to reflect accumulated depreciation as of January 1, 2017. Staff calculated the appropriate accumulated depreciation balance to be \$46,226. As a result, accumulated depreciation should be increased by \$46,226 to reflect an accumulated depreciation balance of \$46,226 as of January 1, 2017.

⁴Order No. 21652, issued August 2, 1989, in Docket No. 19881601-WU, *In re: Application of Allen LaFortune and Otis Fonder for a staff-assisted rate case in Pasco County.*

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

As of January 1, 2017, the Utility's general ledger reflected a fully amortized CIAC balance of \$26,625 for the water plant. Staff reviewed the CIAC balance and has no adjustments. Therefore, staff recommends a CIAC balance of \$26,625 and accumulated amortization of CIAC balance of \$26,625 as of January 1, 2017.

Net Book Value

The Utility's application reflected a NBV of \$117,000. Based on the adjustments described above, staff recommends a NBV of \$9,367 as of January 1, 2017. Staff's recommended NBV and the National Association of Regulatory Utility Commissioners, Uniform System of Accounts (NARUC USOA) balances for UPIS and accumulated depreciation as of January 1, 2017, are shown on Schedule No. 1.

Acquisition Adjustment

An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of the acquisition. The Utility and its assets were purchased for \$117,000. As stated above, staff recommends the appropriate NBV total to be \$9,367. 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 A Utility Inc. for transfer purposes is \$9,367 as of January 1, 2017. 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 A Utility Inc.'s 2019 Annual Report when filed.

Issue 3: Should this docket be closed?

Recommendation: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed and the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision. (DuVal)

Staff Analysis: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed and the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision.

TERRITORY DESCRIPTION

A Utility Inc.

Pasco County

Water Service

In Section 15, Township 26 South, Range 21 East, Pasco County, Florida:

Commence at the Northeast corner of the Northwest $\frac{1}{4}$ of said Section 15; thence run West along said North Section line 300 feet for a Point of Beginning; thence South 230 feet more or less; thence East 300 feet more or less to the East line of said Northwest $\frac{1}{4}$; thence South along said East line of the Northwest $\frac{1}{4}$ 400 feet; thence West 650 feet; thence South 350 feet more or less; thence West 650 feet to the West line of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$; thence North along said line 650 feet; thence East 650 feet; thence North 100 feet; thence East 200 feet; thence North 230 feet more or less to the North line of said Section 15; thence East along said section line 150 feet more or less to the point of Beginning.

FLORIDA PUBLIC SERVICE COMMISSION

Authorizes

A Utility Inc.

Pursuant to

Certificate Number 165-W

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

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
6020	02/04/1974	1974037-W	Original Certificate
6998	11/14/1975	1974544-W	Transfer
10151	07/21/1981	19800253-W	Transfer
11946	05/19/1983	19830048-W	Transfer
19163	04/18/1988	19871156-WU	Transfer
*	*	20170114-WU	Transfer

***Order Number and date to be provided at time of issuance**

**Allen LaFortune and Otis Fonder Water System
Schedule of Net Book Value as of January 1, 2017**

Description	Balance Per Utility	Adjustments	Staff Recommended
Utility Plant in Service	\$97,700	(\$43,107) A	\$54,593
Land & Land Rights	19,300	(18,300) B	1,000
Accumulated Depreciation	0	(46,226) C	(46,226)
CIAC	(26,625)	0	(26,625)
Amortization of CIAC	<u>26,625</u>	<u>0</u>	<u>26,625</u>
Total	<u>\$117,000</u>	<u>(\$107,633)</u>	<u>\$9,367</u>

**Allen LaFortune and Otis Fonder Water System
Explanation of Staff's Recommended
Adjustments to Net Book Value as of January 1, 2017**

Explanation	Amount
A. Utility Plant in Service To reflect appropriate amount of UPIS.	<u>(\$43,107)</u>
B. Land and Land Rights To reflect appropriate amount of land.	<u>(\$18,300)</u>
C. Accumulated Depreciation To reflect appropriate amount of accumulated depreciation.	<u>(\$46,226)</u>
Total Adjustments to Net Book Value as of January 1, 2017.	<u>(\$107,633)</u>

Allen LaFortune and Otis Fonder Water System
Schedule of Staff Recommended Account Balances as of January 1, 2017

Account			Accumulated
No.	Description	UPIS	Depreciation
304	Structures and Improvements	\$1,200	(\$1,200)
307	Wells & Springs	1,674	(1,674)
309	Supply Mains	19,981	(11,851)
311	Pumping Equipment	14,998	(14,922)
320	Water Treatment Equipment	2,792	(2,651)
330	Distribution Reservoirs	153	(133)
333	Services	4,640	(4,640)
339	Other Plant & Miscellaneous	365	(365)
343	Tools, Shop, & Garage Equipment	51	(51)
348	Other Tangible Plant	<u>8,739</u>	<u>(8,739)</u>
	Total	<u>\$54,593</u>	<u>(\$46,226)</u>

**A Utility Inc.
Monthly Water Rates**

Residential Service

Base Facility Charge by Meter Size
Flat Rate

\$14.61

Miscellaneous Service Charges

Normal hours

Initial Connection Charge	\$15.00
Normal Reconnection Charge	\$15.00
Violation Reconnection Charge	\$15.00
Premises Visit Charge (in lieu of disconnection)	\$10.00

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: February 20, 2020
TO: Docket No. 20190122-WU
FROM: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk *AT*
RE: Rescheduled Commission Conference Agenda Item

Staffs memorandum assigned DN 00495-2020 was filed on January 23, 2020, for the February 4, 2020 Commission Conference. As the vote sheet reflects, this item was deferred. This item has been placed on the March 3, 2020 Commission Conference Agenda.

/ajt

RECEIVED-FPSC
2020 FEB 20 AM 8:08
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 23, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (M. Watts) *MT 2/4*
Office of the General Counsel (Schrader) *KS JSC*

RE: Docket No. 20190122-WU – Request for cancellation of Certificate No. 626-W by B&C Water Resources, L.L.C.

AGENDA: 02/04/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

B&C Water Resources, L.L.C. (B&C) was granted water Certificate No. 626-W in 2004.¹ B&C is a Class C utility that provides water service to five customers in Baker and Union Counties through wells located in areas leased by individual hunt clubs.

In 2017, the Commission approved B&C's application for the transfer of majority organizational control of B&C in Baker and Union Counties on the parent level from Plum Creek Manufacturing Holding Company (Plum Creek) to Weyerhaeuser NR Company (WNR).² The

¹Order No. PSC-04-1256-PAA-WU, issued on December 20, 2004, in Docket No. 20041040-WU, *In re: Application for certificate to operate water utility in Baker and Union Counties by B&C Water Resources, L.L.C.*

²Order No. PSC-17-0225-FOF-WS, issued on June 14, 2017, in Docket No. 20170238-WU, *In re: Application of B&C Water Resources, L.L.C. and D&E Water Resources, L.L.C. for transfer of majority organizational control.*

Docket No. 20190122-WU

Date: January 23, 2020

transfer of majority organization control occurred pursuant to the merger of Plum Creek, of which B&C was a wholly-owned subsidiary, into WNR.

On May 31, 2019, WNR filed a request to cancel Certificate No. 626-W, stating that B&C does not currently provide water service to customers for compensation, and has no plans for doing so in the future. WNR believes that, under the circumstances which it currently operates, described in Issue 1, it does not meet the definition of a utility given in Section 367.021, Florida Statutes (F.S.).

In its 2018 annual report, B&C reported providing service to one residential and six general service customers. In its response to staff's July 18, 2019 data request, B&C reported that the reference to a residential customer in its annual report was erroneous, and that it now provides water for only five hunt clubs. B&C also reported in its 2018 annual report that it received water revenues of \$0. The net loss for 2018 was \$23,877. This recommendation addresses the cancellation of Certificate No. 626-W since B&C is no longer operating as a utility as defined by Section 367.021(12), F.S. The Commission has jurisdiction over this matter pursuant to Section 367.011, F.S.

Discussion of Issues

Issue 1: Should Certificate No. 626-W, held by B&C Water Resources, L.L.C. be canceled?

Recommendation: Yes. Certificate No. 626-W should be canceled effective the date the order becomes final. (M. Watts)

Staff Analysis: B&C was originally organized to provide water service to future customers created by prospective real estate development in the service area. Initially, B&C only provided water through individual wells to hunting lodges located on its property. The hunting lodges were leased by individual hunt clubs. Due to the economic downturn in 2008, the real estate development never materialized. Thus, the hunt clubs remain the only users of the water from B&C's wells. B&C stated in its request for cancellation that it has determined that there are no realistic market objectives supporting the purpose for which B&C was originally organized as a utility.

Section 367.021(12), F.S., defines a utility as,

...a water or wastewater utility and, except as provided in Section 367.022, F.S., includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation.

Currently, the hunt clubs lease land from WNR's parent company, Weyerhaeuser Company. Since the hunt clubs exist within discrete areas of Weyerhaeuser Company's land, the members of each hunt club use a single well for small-volume, infrequent cleaning associated with their seasonal hunting activities. The water is accessed at the well through the pump and is only used for cleaning animals. There is no distribution system providing water to the lodges, and the hunters do not use the water for personal consumption. The hunt clubs are currently not charged for the use of the water, either directly or indirectly through their leases.

The Utility is current with filing its annual reports and has no outstanding fines. B&C has remitted its 2019 and 2020 regulatory assessment fees.

Since B&C receives no compensation for the water it provides, it no longer meets the definition of a utility as provided in Section 367.021(12), F.S. Therefore, Certificate No. 626-W should be canceled effective the date the order becomes final.

Issue 2: Should this docket be closed?

Recommendation: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed. (Schrader)

Staff Analysis: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed.

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: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Doehling, Johnson) *KAD JD TB*
Office of the General Counsel (Simmons) *KS JSC*

RE: Docket No. 20200010-WS – Request for cancellation of Certificate No. 388-S by Sun Communities Finance, LLC. d/b/a Water Oak Utility.

AGENDA: 03/03/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Sun Communities Finance, LLC, d/b/a Water Oak Utility (Water Oak or Utility) is a Class B water and wastewater utility located in Lake County. The Utility provides service to approximately 1,145 residential customers and 11 commercial customers. The Utility was granted Water Certificate No. 454-W and Wastewater Certificate No. 388-S in October 1986.¹

On December 3, 2019, staff was notified of Water Oak's intent to cease operation of its own wastewater treatment plant and begin reselling wastewater service from the Town of Lady Lake (Lady Lake) at a rate which does not exceed the actual purchase price. As such, the Utility is requesting that its wastewater system be exempt from the Commission's jurisdiction pursuant to

¹Order No. 16150, issued May 23, 1986, in Docket No. 19850517-WS, *In re: Application of Water Oak Utilities Co., Inc., for certificates to provide water and sewer service in Lake County, pursuant to the provisions of section 367.041, F.S.*

Docket No. 20200010-WS

Date: February 20, 2020

Section 367.022(8), Florida Statutes (F.S.), and cancellation of its wastewater certificate. The Utility's water system will continue to be operated as a regulated utility.

The Commission has jurisdiction pursuant to Section 367.022, F.S.

Discussion of Issues

Issue 1: Should the Commission cancel Water Oak Utility's Certificate No. 388-S?

Recommendation: Yes. Water Oak Utility is operating its wastewater system as a reseller exempt from the Commission's jurisdiction pursuant to Section 367.022(8), F.S. Therefore, the Commission should cancel Certificate No. 388-S effective the date the consummating order is issued. Regulatory assessment fees (RAFs) for 2020, the 2019 Annual Report, and billing data are due to the Commission within 30 days of the Commission vote. The water system will continue to be operated as a regulated utility. (Doehling, Johnson)

Staff Analysis: On December 3, 2019, staff was notified that the Utility was seeking exemption pursuant to Section 367.022(8), F.S. This exemption applies to any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater.

On April 15, 2019, Water Oak entered into an agreement with Lady Lake which will receive and treat all wastewater from the Utility. Water Oak will resell wastewater service at a rate or charge which does not exceed the actual purchase price of the bulk wastewater service. The Utility will be splitting each bulk wastewater service bill among the customers based upon their water usage, with no "add on" charges being assessed. On December 23, 2019, the connection to Lady Lake was made and as of January 20, 2020, the Utility has ceased operation of its wastewater treatment plant.²

Water Oak has paid its 2019 RAFs and has notified its customers that it is seeking exemption from the Commission's jurisdiction.³ Water Oak has agreed to pay RAFs for 2020 and file its 2019 Annual Report. In addition, the Utility has agreed to provide billing data which demonstrates that customers are not being charged at a rate that exceeds the actual purchase price of the wastewater service.

Based on the above, staff recommends that the Commission cancel Certificate No. 388-S effective the date the consummating order is issued. RAFs for 2020, the 2019 Annual Report, and billing data are due to the Commission within 30 days of the Commission vote.⁴ The water system will continue to be operated as a regulated utility.

²Document No. 00590-2020, filed January 27, 2020.

³Document No. 00869-2020, filed February 11, 2020.

⁴2020 RAFs are for the period from January 1, 2020, to January 20, 2020, the date the wastewater plant ceased operation.

Issue 2: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of this order, a consummating order should be issued. The docket should remain open until Water Oak has paid its 2020 RAFs, submitted its 2019 Annual Report, and provided staff billing data demonstrating customers are not being charged at a rate that exceeds the actual purchase price of the wastewater service. Once these actions are complete, this docket should be closed administratively. (Simmons)

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 this order, a consummating order should be issued. The docket should remain open until Water Oak has paid its 2020 RAFs, submitted its 2019 Annual Report, and provided staff billing data demonstrating customers are not being charged at a rate that exceeds the actual purchase price of the wastewater service. Once these actions are complete, this docket should be closed administratively.

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: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) *S.K.G. WSE EDD*
Office of the General Counsel (Brownless) *JDH*

RE: Docket No. 20190223-EI – Petition for approval of a permanent optional LED streetlight tariff, by Florida Power & Light Company.

AGENDA: 03/03/20 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 60-Day Suspension Date waived by FPL until 03/03/2020

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2020 FEB 20 AM 8:36
COMMISSION CLERK

Case Background

On December 30, 2019, Florida Power & Light Company (FPL) filed a petition seeking approval of a permanent Light Emitting Diode (LED) Streetlight Tariff (LT-1) and accompanying LED Streetlight Agreement (LT-1 Agreement) (jointly, LED tariff). The optional LED tariff is available for lighting private or public streets, roadways, parking lots, homeowners associations' common areas, and parks.

In March 2017, the Commission approved the LED tariff as a three-year pilot program and directed FPL to file a petition by end of December 2019 to modify, terminate, or make permanent the pilot LED tariff and accompanying LT-1 Agreement.¹ Accordingly, FPL submitted the instant petition requesting the pilot program, with certain revisions, be made

¹Order No. PSC-17-0115-TRF-EI, issued on March 28, 2017, in Docket No. 20160245-EI, *In re: Petition for approval of a new optional pilot LED streetlight tariff, by Florida Power & Light Company.*

permanent. The proposed revisions to the LED tariff provide additional LED fixture options, and revised maintenance and conversion recovery charges based on updated costs. All other aspects of the pilot program remain unchanged. On February 11, 2020, FPL filed revised tariff sheets to correct minor errors. The revised LED tariff sheets are included in Attachment A to the recommendation. This petition, as was the pilot program, is consistent with FPL's 2016 rate case settlement which permits the filing of optional tariffs.²

In 2013, FPL began offering FPL-owned LED lighting under its Premium Lighting (PL-1) tariff. The PL-1 tariff was first approved in 1998 and is available to any customer wishing to have lighting installations in streets, parking lots, or homeowners association common areas.³ Pursuant to the PL-1 tariff, customers are required to pay a lump sum in advance for the construction of LED lighting facilities. By 2016, FPL had 653,165 High Pressure Sodium vapor (HPSV) street light fixtures in service. Due to the upfront payment requirement and conversion costs from HPSV to LED lighting, only 1,691 LED fixtures were installed as of June 2016.

The current pilot LED tariff was designed to offer customers additional lighting options and allow customers to convert from HPSV to LED lighting by paying for those costs through a monthly charge instead of paying an upfront cost. The LED pilot tariffs became effective on March 7, 2017 and the 3-year pilot terminates on March 6, 2020. Customers taking service under the LED tariff are required to sign the LT-1 Agreement for an initial term of 10 years.

During the review of this petition, staff issued a data request to FPL to which responses were received on January 29, 2020. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

² Order No. PSC-16-0560-AS-EI, issued on December 15, 2016, in Docket No. 20160021-EI, *In re: Petition for rate increase by Florida Power & Light Company.*

³ Order No. PSC-98-0260-FOF-EI, issued on February 9, 1998, in Docket No. 971256-EI, *In re: Petition for approval of premium lighting and recreational lighting service rates schedules and agreements by Florida Power & Light Company.*

Discussion of Issues

Issue 1: Should the Commission approve FPL's proposed LED tariff?

Recommendation: Yes. The Commission should approve FPL's LED tariff as shown in Attachment A to the recommendation. The LED tariff and associated agreement should become effective with the Commission vote on March 3, 2020. (Guffey)

Staff Analysis: In the instant petition, FPL proposes four revisions to the current LED tariffs: 1) remove the word *pilot*, 2) provide additional LED fixture options, 3) revise the maintenance charges, and 4) revise the LED conversion recovery charge. The only proposed changes to the LT-1 Agreement tariff sheets are a change to the tariff manager's name.

FPL explained that the number of installed LED fixtures increased from 1,691 as of June 2016 to 195,000 as of October 2019. FPL further stated that there is customer demand for additional and more expensive styles of fixtures and that it has approximately 735 customers such as homeowner associations, commercial entities, and city and county governments who have expressed interest in new LED fixtures or conversions to LED lighting.

Monthly LED Tariff Charges

As with the current pilot LED tariff, the proposed LED tariff charges are comprised of three components: a fixture charge, an energy charge, and a maintenance charge, consistent with other lighting tariffs electric utilities offer. In addition, the LED tariff includes an LED conversion charge for customers who choose to convert existing non-LED fixtures to LED fixtures. The revised charges are discussed below. All other Commission-approved street lighting cost recovery factors such as fuel or storm recovery charges will also apply.

Additional Fixture Options

The available LED fixtures are shown in a catalog on FPL's website⁴ as it allows FPL to update the catalog as needed to offer customers the latest LED fixtures. Each fixture shown in the catalog is assigned the appropriate fixture and energy tier. A sample page of the catalog is shown in Exhibit E to the petition.

The matrix (titled *Monthly Rates for LED Fixtures*), included in Tariff Sheet No. 8.736 (see Attachment A, page 3 of 10), shows the fixture and energy charges applicable to each fixture. Fixtures vary by style, watts, lumens, and other factors. FPL explained that customers have been requesting more expensive fixtures and/or higher wattage fixtures than currently available. FPL, therefore, proposed to include additional fixture and energy tiers in the matrix to accommodate the demand for additional fixture options.

With the additional fixture options, the expanded matrix will show a total of 15 fixture tiers and 31 energy tiers. The 15 fixture tiers are shown on the X axis and each tier represents the monthly fixture charge for LED fixtures whose installed costs fall within the range covered by that tier. Each tier increases by \$3. The individual fixture cost is based on the estimated cost to install plus the carrying costs associated with the initial capital investment (cost of capital, depreciation,

⁴ www.fpl.com/LED

property tax, and insurance cost). This all-in cost is annualized using the asset life, and then divided by 12 to arrive at the monthly fixture cost. The monthly cost is then assigned to the appropriate fixture tier on the LED matrix. FPL provided the calculation of a monthly fixture cost in response to Staff's First Data Request No. 9. Staff believes the monthly fixture cost calculation methodology used by FPL is reasonable.

The 31 energy tiers are shown on the Y axis and each tier represents the monthly energy charge for fixtures whose energy usage falls within specified wattage ranges. Each energy tier increases by \$0.20. FPL provided the calculation of a monthly energy charge in response to Staff's First Data Request No. 11. Staff believes the monthly energy charge calculation methodology used by FPL is reasonable.

Maintenance Charges

FPL reduced the maintenance charge from \$1.82 to \$1.29 per fixture for fixtures on FPL-owned poles and from \$1.27 to \$1.03 per fixture for fixtures on customer-owned poles. The proposed maintenance charges are based on FPL system-wide maintenance costs for LED fixtures. FPL explained that the calculation of the current maintenance charge was based on mostly HPSV fixtures, as in 2016 the majority of FPL's lighting infrastructure was comprised of HPSV fixtures. However, with the increase in LED fixtures in recent years, FPL stated that it now has more maintenance data specific to LED fixtures. The data show that the maintenance costs for LED fixtures are lower than for HPSV fixtures, resulting in the proposed lower maintenance charges.

The maintenance charge for fixtures on customer-owned poles (\$1.03) is set at 80 percent of the maintenance charge for fixtures on FPL-owned poles (\$1.29). FPL explained that approximately 20 percent of the maintenance expense is related to pole or conductor repair. Staff believes the monthly maintenance charge calculation methodology used by FPL is reasonable.

The maintenance charge is designed to recover the costs associated with maintaining the LED street light system and includes costs such as repairing poles, conductors, cable, replacing photocells, or replacing connectors. FPL proposes to continue to utilize a method of allocating maintenance charges which relies upon a flat fee per fixture rather than varying the fee based on the cost of the fixtures.

Conversion Recovery Fee

Customers requesting to convert from HPSV under the SL-1 tariff to LED lights under the LED tariff pay a monthly conversion recovery fee. The conversion recovery fee allows FPL to recover the remaining net book value and removal costs of the HPSV fixtures over a 25-year term. FPL proposes to revise the monthly conversion recovery fee from \$1.03 to \$1.87 per fixture based on updated cost assumptions and a correction to the calculation.

FPL explained that the quantity of HPSV lights installed has increased since 2016, resulting in a higher net book value per light. The removal cost per light, on the other hand, has reduced as the estimated time to remove a light has decreased. Finally, the cost of capital rate has been updated based on FPL's current pre-tax cost of capital of 10.36 percent. FPL calculated a levelized payment stream of the net book value plus removal cost multiplied by the cost of capital rate,

over the 25-year term of recovery. FPL further explained that its current cost recovery fee calculation included a formula error, resulting in an understated conversion recovery fee. Staff believes the monthly conversion recovery fee calculation methodology used by FPL is reasonable. Staff notes that the proposed increase in the conversion recovery fee will be partially offset by the reduction in the proposed maintenance charges.

Conclusion

FPL explained that as a result of the pilot program's popularity, FPL is proposing to make the LED tariff and accompanying LT-1 Agreement permanent. This optional LED tariff will provide more LED lighting options to customers. Based on staff's review of FPL's petition and responses to staff's data request, the Commission should approve FPL's LED tariff as shown in Attachment A to the recommendation. The LED tariff and associated agreement should become effective with the Commission vote on March 3, 2020.

Issue 2: Should this docket be closed?

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

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

~~Fifty-Ninth~~^{Sixtieth} Revised Sheet No. 8.010
Cancels ~~Fifty-Eighth~~^{Ninth} 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
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
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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 (2000 kW +)	8.440
CST-3	Curtable Service -Time of Use (69 kV or above)	8.542
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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
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DSMAR	Demand Side Management Adjustment Rider	8.810
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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: Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~March 1, 2018~~

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 8.735
Cancels Original Sheet No. 8.735

LED LIGHTING-PILOT

RATE SCHEDULE: LT-1

AVAILABLE:

In specific territories served, upon request of the entity that has jurisdiction over the area being lighted. Contact FPL for available installation territories.

APPLICATION:

For the purpose of lighting streets whether public or private, roadways, and common areas, other than individual residential locations. This includes but is not limited to parking lots, homeowners association common areas, or parks.

TYPE OF INSTALLATION:

FPL-owned fixtures normally will be mounted on poles of FPL's existing distribution system and served from overhead wires. On request of the Customer, FPL will provide special poles or underground wires at the charges specified below. FPL, at its discretion, may offer the customer the option of FPL-owned fixtures attached to poles owned by the customer.

SERVICE:

Service includes energy from dusk each day until dawn the following day and maintenance of FPL-owned Lighting Systems. Maintenance includes replacement or repair of any circuit component to assure the facilities are operational and safe.

LIMITATION OF SERVICE:

Stand-by or resale service is not permitted hereunder.

CUSTOMER CONTRIBUTIONS:

A Contribution-in-Aid-of-Construction (CIAC) will be required for:

- a) the differential cost between employing rapid construction techniques in trenching, backfilling and pole installation work where no obstructions exist, and the added cost to overcome obstructions such as sprinkler systems, paved surfaces (such as sidewalks, curbs, gutters, and roadways), landscaping, sodding and other obstructions encountered along the Lighting System installation route, including repair and replacement. If the Customer elects to perform work such as trenching and restoration, they will be reimbursed by FPL with a credit (not to exceed the total CIAC cost) for the value of this work as determined by FPL;
- b) the installation cost of any new overhead distribution facilities and/or the cost of alterations to existing distribution facilities which are required in order to serve the Lighting System less four (4) times the additional annual non-fuel energy revenue generated by the installation or alteration of the Lighting System, plus where underground facilities are installed, the differential installation cost between underground and overhead distribution facilities.

These costs shall be paid by the Customer prior to the initiation of any construction work by FPL. The Customer shall also pay any additional costs associated with design modifications requested after the original estimate has been made.

(Continued on Sheet No. 8.736)

Issued by: S. E. Romig/Tiffany Cohen, Director, Rates and Tariffs
Effective: March 7, 2017

First Revised Sheet No. 8.736
Cancels Original Sheet No. 8.736

FLORIDA POWER & LIGHT COMPANY

(Continued from Sheet No. 8.735)

REMOVAL OF FACILITIES:

If FPL owned Lighting facilities are removed either by Customer request or termination or breach of the agreement, the customer will pay the fixture, pole, and conductor charges for the period remaining on the currently active term of service plus the cost to remove the facilities. **These charges do not apply to street light conversions from FPL owned facilities covered under SL-1 to FPL owned LED facilities under this tariff.** In all cases, should the Customer request termination of the agreement, such termination will require written notice 90 days prior to the date of termination.

Conversion of FPL Owned Streetlights (SL-1 facilities) to LED:

For customers converting Street Lights as per FPL's SL-1 Street Lighting Tariff paying the LED Conversion Recovery charge, there will be no charges for the fixtures being removed. Any other charges for relocation or replacement of FPL owned facilities would still apply.

CHANGE IN FIXTURE SIZE OR TYPE:

At the Customer's request, the Company will upgrade to a higher level of illumination when the changes are consistent with good engineering practices. The customer will pay the original installed cost of the removed fixtures, less any salvage value and depreciation, plus removal costs and will receive a credit for 4 years additional revenue generated by the larger fixtures. If changes are required to the distribution system to support the larger lights, standard CIAC charges as described on sheet 8.735 will also apply. The Customer will pay the Company the net costs incurred in making other fixture changes. Customers converting HPSV fixtures to LED and paying the LED Conversion Recovery Charge will not be charged for the fixtures being removed, as noted in the preceding paragraph. In all cases where luminaires are replaced, the Customer will sign a new service agreement. Billing on the rate for the new luminaire or lamp size will begin as of the next regular billing date. A luminaire may be relocated at the Customer's request upon payment by the Customer of the full cost of removal and reinstallation.

MONTHLY RATES for LED Fixtures*:

Energy Tier	Charge	Fixture Tier														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
A	\$ -	1.50	4.50	7.50	10.50	13.50	16.50	19.50	22.50	25.50	28.50	31.50	34.50	37.50	40.50	43.50
B	\$ 0.20	1.70	4.70	7.70	10.70	13.70	16.70	19.70	22.70	25.70	28.70	31.70	34.70	37.70	40.70	43.70
C	\$ 0.40	1.90	4.90	7.90	10.90	13.90	16.90	19.90	22.90	25.90	28.90	31.90	34.90	37.90	40.90	43.90
D	\$ 0.60	2.10	5.10	8.10	11.10	14.10	17.10	20.10	23.10	26.10	29.10	32.10	35.10	38.10	41.10	44.10
E	\$ 0.80	2.30	5.30	8.30	11.30	14.30	17.30	20.30	23.30	26.30	29.30	32.30	35.30	38.30	41.30	44.30
F	\$ 1.00	2.50	5.50	8.50	11.50	14.50	17.50	20.50	23.50	26.50	29.50	32.50	35.50	38.50	41.50	44.50
G	\$ 1.20	2.70	5.70	8.70	11.70	14.70	17.70	20.70	23.70	26.70	29.70	32.70	35.70	38.70	41.70	44.70
H	\$ 1.40	2.90	5.90	8.90	11.90	14.90	17.90	20.90	23.90	26.90	29.90	32.90	35.90	38.90	41.90	44.90
I	\$ 1.60	3.10	6.10	9.10	12.10	15.10	18.10	21.10	24.10	27.10	30.10	33.10	36.10	39.10	42.10	45.10
J	\$ 1.80	3.30	6.30	9.30	12.30	15.30	18.30	21.30	24.30	27.30	30.30	33.30	36.30	39.30	42.30	45.30
K	\$ 2.00	3.50	6.50	9.50	12.50	15.50	18.50	21.50	24.50	27.50	30.50	33.50	36.50	39.50	42.50	45.50
L	\$ 2.20	3.70	6.70	9.70	12.70	15.70	18.70	21.70	24.70	27.70	30.70	33.70	36.70	39.70	42.70	45.70
M	\$ 2.40	3.90	6.90	9.90	12.90	15.90	18.90	21.90	24.90	27.90	30.90	33.90	36.90	39.90	42.90	45.90
N	\$ 2.60	4.10	7.10	10.10	13.10	16.10	19.10	22.10	25.10	28.10	31.10	34.10	37.10	40.10	43.10	46.10
O	\$ 2.80	4.30	7.30	10.30	13.30	16.30	19.30	22.30	25.30	28.30	31.30	34.30	37.30	40.30	43.30	46.30
P	\$ 3.00	4.50	7.50	10.50	13.50	16.50	19.50	22.50	25.50	28.50	31.50	34.50	37.50	40.50	43.50	46.50
Q	\$ 3.20	4.70	7.70	10.70	13.70	16.70	19.70	22.70	25.70	28.70	31.70	34.70	37.70	40.70	43.70	46.70
R	\$ 3.40	4.90	7.90	10.90	13.90	16.90	19.90	22.90	25.90	28.90	31.90	34.90	37.90	40.90	43.90	46.90
S	\$ 3.60	5.10	8.10	11.10	14.10	17.10	20.10	23.10	26.10	29.10	32.10	35.10	38.10	41.10	44.10	47.10
T	\$ 3.80	5.30	8.30	11.30	14.30	17.30	20.30	23.30	26.30	29.30	32.30	35.30	38.30	41.30	44.30	47.30
U	\$ 4.00	5.50	8.50	11.50	14.50	17.50	20.50	23.50	26.50	29.50	32.50	35.50	38.50	41.50	44.50	47.50
V	\$ 4.20	5.70	8.70	11.70	14.70	17.70	20.70	23.70	26.70	29.70	32.70	35.70	38.70	41.70	44.70	47.70
W	\$ 4.40	5.90	8.90	11.90	14.90	17.90	20.90	23.90	26.90	29.90	32.90	35.90	38.90	41.90	44.90	47.90
X	\$ 4.60	6.10	9.10	12.10	15.10	18.10	21.10	24.10	27.10	30.10	33.10	36.10	39.10	42.10	45.10	48.10
Y	\$ 4.80	6.30	9.30	12.30	15.30	18.30	21.30	24.30	27.30	30.30	33.30	36.30	39.30	42.30	45.30	48.30
Z	\$ 5.00	6.50	9.50	12.50	15.50	18.50	21.50	24.50	27.50	30.50	33.50	36.50	39.50	42.50	45.50	48.50
AA	\$ 5.20	6.70	9.70	12.70	15.70	18.70	21.70	24.70	27.70	30.70	33.70	36.70	39.70	42.70	45.70	48.70
BB	\$ 5.40	6.90	9.90	12.90	15.90	18.90	21.90	24.90	27.90	30.90	33.90	36.90	39.90	42.90	45.90	48.90
CC	\$ 5.60	7.10	10.10	13.10	16.10	19.10	22.10	25.10	28.10	31.10	34.10	37.10	40.10	43.10	46.10	49.10
DD	\$ 5.80	7.30	10.30	13.30	16.30	19.30	22.30	25.30	28.30	31.30	34.30	37.30	40.30	43.30	46.30	49.30
EE	\$ 6.00	7.50	10.50	13.50	16.50	19.50	22.50	25.50	28.50	31.50	34.50	37.50	40.50	43.50	46.50	49.50

* Catalog of available fixtures and the assigned billing tier for each can be viewed at www.FPL.com/partner/builders/lighting.html

(Continued on Sheet No. 8.737)

Issued by: S. E. Romig/Tiffany Cohen, Director, Rates and Tariffs
Effective: March 7, 2017

FLORIDA POWER & LIGHT COMPANY

~~Seventh~~**Eighth** Revised Sheet No. 8.737
~~Cancels Sixth~~**Seventh** Revised Sheet No. 8.737

(Continued from Sheet No. 8.736)

Maintenance per Fixture (FPL Owned Fixture and Pole)	\$1,821.22
Maintenance per Fixture for FPL Fixtures on Customer Pole	\$1,241.03
LED Conversion Recovery	\$1,631.87

Notes:

The non-fuel energy charge is 3.041¢ per kWh.
Bills rendered based on "Total" charge. Unbundling of charges is not permitted.

Charges for other FPL-owned facilities:

Wood pole used only for the street lighting system	\$5.20
Standard Concrete pole used only for the street lighting system	\$7.11
Round Fiberglass pole used only for the street lighting system	\$8.42
Decorative Tall Fiberglass pole used only for the street lighting system	\$17.76
Decorative Concrete pole used only for the street lighting system	\$14.42
Underground conductors	4.024 ¢ per foot

SPECIAL PROVISIONS:

Where the Company provides poles other than those listed above, the monthly charges, as applicable shall be computed as follows:

Facilities Charge: 1.63% of the Company's average installed cost of the pole.

BILLING

During the initial installation period:
Facilities in service for 15 days or less will not be billed;
Facilities in service for 16 days or more will be billed for a full month.

WILLFUL DAMAGE:

Upon the second occurrence of willful damage to any FPL-owned facilities, the Customer will be responsible for the cost incurred for repair or replacement. If the lighting fixture is damaged, based on prior written instructions from the Customer, FPL will:

- a) If a commercially available and FPL approved device exists, install a protective shield. The Customer shall pay \$280.00 for the shield plus all associated costs. However, if the Customer chooses to have the shield installed before the second occurrence, the Customer shall only pay the cost of the shield; or
- b) Replace with a like unshielded fixture. For this, and each subsequent occurrence, the Customer shall pay the estimated costs of the replacement fixture; or
- c) Terminate service to the fixture. In this case, the lighting facilities will be removed from the field and from billing; the customer will pay the lighting facilities charges for the remaining period of the currently active term of service plus the cost to remove the facilities.

Option selection shall be made by the Customer in writing and apply to all fixtures which FPL has installed on the Customer's behalf on the same account. Selection changes may be made by the Customer at any time and will become effective ninety (90) days after written notice is received.

(Continued on Sheet No. 8.738)

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective:

FLORIDA POWER & LIGHT COMPANY

First ~~Second~~ Revised Sheet No. 8.738
Cancels Original ~~First~~ Revised Sheet No. 8.738

(Continued from Sheet No. 8.737)

OTHER CHARGES

Conservation Charge	See Sheet No. 8.030.1
Capacity Payment Charge	See Sheet No. 8.030.1
Environmental Charge	See Sheet No. 8.030.1
Fuel Charge	See Sheet No. 8.030.1
Storm Charge	See Sheet No. 8.040
Franchise Fee	See Sheet No. 8.031
Tax Clause	See Sheet No. 8.032

SPECIAL CONDITIONS:

Customers whose lights are turned off during sea turtle nesting season will receive a credit equal to the fuel charges associated with the fixtures that are turned off.

TERM OF SERVICE:

Initial term of ten (10) years with automatic, successive five (5) year extensions unless terminated in writing by either FPL or the Customer at least ninety (90) days prior to the current term's expiration. Term of service begins upon execution of the LED Lighting Agreement.

RULES AND REGULATIONS:

Service under this schedule is subject to orders of governmental bodies having jurisdiction and to the currently effective "General Rules and Regulations for Electric Service" on file with the Florida Public Service Commission. In case of conflict between any provision of this schedule and said "General Rules and Regulations for Electric Service", the provision of this schedule shall apply.

Issued by: ~~S. E. Romig~~ Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~December 6, 2017~~

FLORIDA POWER & LIGHT

First Revised Sheet No. 9.140
 Cancels Original Sheet No. 9.140

FPL Account Number: _____

FPL Work Request Number: _____

LED LIGHTING AGREEMENT

In accordance with the following terms and conditions, _____ (hereinafter called the Customer), requests on this ___ day of ____, from FLORIDA POWER & LIGHT COMPANY (hereinafter called FPL), a corporation organized and existing under the laws of the State of Florida, the following installation or modification of lighting facilities at (general boundaries) _____, located in _____, Florida.

(a) Installation and/or removal of FPL-owned facilities described as follows:

Poles				
Pole Type	Existing Pole Count (A)	# Installed (B)	# Removed (C)	New Pole Count (A+B-C)
Wood				
Standard Concrete				
Standard Fiberglass				
Decorative Concrete				
Decorative Fiberglass				

Underground Conductor				
Type	Existing Footage (A)	Feet Installed (B)	Feet Removed (C)	New Footage (A+B-C)
Under Pavement		N/A ⁽¹⁾		
Not Under Pavement				

(1) All new conductor installed is in conduit and billed as Not Under Pavement

(Continued on Sheet No. 9.141)

Issued by: ~~S. E. Romig~~ Tiffany Cohen, Director, Rates and Tariffs
 Effective: ~~March 7, 2017~~

FLORIDA POWER & LIGHT COMPANY

First Revised Sheet No. 9.142
Cancels Original Sheet No. 9.142

(b) Modification to existing facilities other than described above (explain fully):

That, for and in consideration of the covenants set forth herein, the parties hereto covenant and agree as follows:

FPL AGREES:

1. To install or modify the lighting facilities described and identified above (hereinafter called the Lighting System), furnish to the Customer the electric energy necessary for the operation of the Lighting System, and furnish such other services as are specified in this Agreement, all in accordance with the terms of FPL's currently effective lighting rate schedule on file at the Florida Public Service Commission (FPSC) or any successive lighting rate schedule approved by the FPSC.

THE CUSTOMER AGREES:

2. To pay a contribution in the amount of \$_____ prior to FPL's initiating the requested installation or modification.
3. To purchase from FPL all of the electric energy used for the operation of the Lighting System.
4. To be responsible for paying, when due, all bills rendered by FPL pursuant to FPL's currently effective lighting rate schedule on file at the FPSC or any successive lighting rate schedule approved by the FPSC, for facilities and service provided in accordance with this agreement.
5. To provide access, final grading and, when requested, good and sufficient easements, suitable construction drawings showing the location of existing and proposed structures, identification of all non-FPL underground facilities within or near pole or trench locations, and appropriate plats necessary for planning the design and completing the construction of FPL facilities associated with the Lighting System.
6. To perform any clearing, compacting, removal of stumps or other obstructions that conflict with construction, and drainage of rights-of-way or easements required by FPL to accommodate the lighting facilities.

IT IS MUTUALLY AGREED THAT:

7. Modifications to the facilities provided by FPL under this agreement, other than for maintenance, may only be made through the execution of an additional lighting agreement delineating the modifications to be accomplished. Modification of FPL lighting facilities is defined as the following:
 - a. the addition of lighting facilities;
 - b. the removal of lighting facilities; and
 - c. the removal of lighting facilities and the replacement of such facilities with new facilities and/or additional facilities.

Modifications will be subject to the costs identified in FPL's currently effective lighting rate schedule on file at the FPSC, or any successive schedule approved by the FPSC.

8. Lighting facilities will only be installed in locations that meet all applicable clear zone right-of-way setback requirements.
9. FPL will, at the request of the Customer, relocate the lighting facilities covered by this agreement, if provided sufficient right-of-ways or easements to do so and locations requested are consistent with clear zone right-of-way setback requirements. The Customer shall be responsible for the payment of all costs associated with any such Customer-requested relocation of FPL lighting facilities. Payment shall be made by the Customer in advance of any relocation.

(Continue on Sheet No. 9.143)

Issued by: ~~S-E Romig~~ Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~March 7, 2017~~

FLORIDA POWER & LIGHT

First Revised Sheet No. 9.143
Cancels Original Sheet No. 9.143

10. FPL may, at any time, substitute for any luminaire installed hereunder another luminaire which shall be of at least equal illuminating capacity and efficiency.
11. This Agreement shall be for a term of ten (10) years from the date of initiation of service, and, except as provided below, shall extend thereafter for further successive periods of five (5) years from the expiration of the initial ten (10) year term or from the expiration of any extension thereof. The date of initiation of service shall be defined as the date the first lights are energized and billing begins, not the date of this Agreement. This Agreement shall be extended automatically beyond the initial the (10) year term or any extension thereof, unless either party shall have given written notice to the other of its desire to terminate this Agreement. The written notice shall be by certified mail and shall be given not less than ninety (90) days before the expiration of the initial ten (10) year term, or any extension thereof.
12. In the event lighting facilities covered by this agreement are removed, either at the request of the Customer or through termination or breach of this Agreement, the Customer shall be responsible for paying to FPL an amount equal to the fixture, pole, and conductor charges for the period remaining on the currently active term of service plus the cost to remove the facilities.
13. Should the Customer fail to pay any bills due and rendered pursuant to this agreement or otherwise fail to perform the obligations contained in this Agreement, said obligations being material and going to the essence of this Agreement, FPL may cease to supply electric energy or service until the Customer has paid the bills due and rendered or has fully cured such other breach of this Agreement. Any failure of FPL to exercise its rights hereunder shall not be a waiver of its rights. It is understood, however, that such discontinuance of the supplying of electric energy or service shall not constitute a breach of this Agreement by FPL, nor shall it relieve the Customer of the obligation to perform any of the terms and conditions of this Agreement.
14. The obligation to furnish or purchase service shall be excused at any time that either party is prevented from complying with this Agreement by strikes, lockouts, fires, riots, acts of God, the public enemy, or by cause or causes not under the control of the party thus prevented from compliance, and FPL shall not have the obligation to furnish service if it is prevented from complying with this Agreement by reason of any partial, temporary or entire shut-down of service which, in the sole opinion of FPL, is reasonably necessary for the purpose of repairing or making more efficient all or any part of its generating or other electrical equipment.
15. This Agreement supersedes all previous Agreements or representations, either written, oral, or otherwise between the Customer and FPL, with respect to the facilities referenced herein and constitutes the entire Agreement between the parties. This Agreement does not create any rights or provide any remedies to third parties or create any additional duty, obligation or undertakings by FPL to third parties.
16. In the event of the sale of the real property upon which the facilities are installed, upon the written consent of FPL, this Agreement may be assigned by the Customer to the Purchaser. No assignment shall relieve the Customer from its obligations hereunder until such obligations have been assumed by the assignee and agreed to by FPL.
17. This Agreement shall inure to the benefit of, and be binding upon the successors and assigns of the Customer and FPL.
18. The lighting facilities shall remain the property of FPL in perpetuity.
19. This Agreement is subject to FPL's Electric Tariff, including, but not limited to, the General Rules and Regulations for Electric Service and the Rules of the FPSC, as they are now written, or as they may be hereafter revised, amended or supplemented. In the event of any conflict between the terms of this Agreement and the provisions of the FPL Electric Tariff or the FPSC Rules, the provisions of the Electric Tariff and FPSC Rules shall control, as they are now written, or as they may be hereafter revised, amended or supplemented.

(Continue on Sheet No. 9.144)

Issued by: ~~S. E. Romig~~ Tiffany Cohen, Director, Rates and Tariffs
Effective: March 7, 2017

FLORIDA POWER & LIGHT

First Revised Sheet No. 9.144
Cancels Original Sheet No. 9.144

IN WITNESS WHEREOF, the parties hereby caused this Agreement to be executed in triplicate by their duly authorized representatives to be effective as of the day and year first written above.

Charges and Terms Accepted:

Customer (Print or type name of Organization)

FLORIDA POWER & LIGHT COMPANY

By: _____
Signature (Authorized Representative)

By: _____
(Signature)

(Print or type name)

(Print or type name)

Title: _____

Title:

Issued by: ~~S. E. Romig~~ Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~March 7, 2017~~

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: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Bruce, Hudson)

Division of Accounting and Finance (Wilson, T. Brown)

Division of Engineering (Knoblauch, Lewis)

Office of the General Counsel (DuVal)

RE: Docket No. 20190114-WU – Application for staff-assisted rate case in Alachua County, and request for interim rate increase by Gator Waterworks, Inc.

AGENDA: 03/03/20 – Regular Agenda – Proposed Agency Action Except Issue Nos. 14, 15, and 16 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: 10/12/20 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2020 FEB 20 AM 10:49
COMMISSION
CLERK

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Case Background

Gator Waterworks, Inc. (Gator or utility) is a Class C utility serving approximately 331 residential water customers and 4 general service customers in Alachua County. The utility has never had a staff-assisted rate case before the Commission. According to Gator's 2018 annual report, total gross revenue was \$47,041 and total operating expense was \$80,178.

The utility began providing water service in 1965 under the name Kincaid Hills Water Company. On June 30, 1992, the Alachua County Board of County Commissioners adopted a resolution, which gave jurisdiction over the regulation of privately-owned water and wastewater utilities to this Commission. On November 18, 1992, Kincaid filed its application for an original certificate to provide water service in Alachua County under grandfather rights and Certificate No. 555-W was granted by Order No. PSC-93-1027-FOF-WU.¹ The utility's rates and charges were last approved in the grandfather certificate proceeding. However, the utility's rates have been amended through three price index increases.

Gator purchased Kincaid Hills Water Company on February 23, 2018, and filed an application for Transfer of Facilities and Certificate on March 12, 2018. By Order No. PSC-2018-0587-PAA-WU, (transfer order) the Commission approved the transfer.² On May 13, 2019, Gator filed its application for a staff-assisted rate case (SARC). In its application, the utility requested a test year ended March 31, 2019, for interim and final rate purposes. The Commission approved interim rates designed to generate a revenue increase of 37.42 percent.³

The Commission has jurisdiction pursuant to Sections 367.011, 367.081, 367.0812, 367.0814, 367.091 and 367.121, Florida Statutes (F.S.).

¹Order No. PSC-93-1027-FOF-WU, issued July 13, 1993, in Docket No. 19921195-WU, *In re: Application for certificate to provide water service in Alachua County under grandfather rights by Kincaid Hills Water Company.*

²Order No. PSC-2018-0587-PAA-WU, issued December 17, 2018, in Docket No. 20180066-WU; *In re: Application for transfer of facilities of Kincaid Hills Water Company and Water Certificate No. 555-W to Gator Waterworks, Inc.*

³Order No. PSC-2019-0307-PCO-WU, issued July 29, 2019, in Docket No. 20190114-WU, *In re: Application for staff-assisted rate case in Alachua County, and request for interim rate increase by Gator Waterworks, Inc.*

Discussion of Issues

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

Recommendation: Yes. The utility is in-compliance with the Department of Environmental Protection (DEP) and has been responsive to its customer complaints. Therefore, the quality of service provided by Gator should be considered satisfactory. (Lewis, Knoblauch)

Staff Analysis: Pursuant to Rule 25-30.433(1), Florida Administrative Code (F.A.C.), the Commission, in every rate case, shall make a determination of the quality of service provided by the utility by evaluating the quality of utility's product (water) and the utility's attempt to address customer satisfaction (water and wastewater). The Rule states that the most recent chemical analyses, outstanding citations, violations, and consent orders on file with the DEP and the county health department, along with any DEP and county health department officials' testimony concerning quality of service shall be considered. In addition, any customer testimony, comments, or complaints shall also be considered.

Quality of Utility's Product

In evaluation of Gator's product quality, staff reviewed the utility's compliance with the DEP primary and secondary drinking water standards. Primary standards protect public health, while secondary standards regulate contaminants that may impact the taste, odor, and color of drinking water. The most recent chemical analyses were performed on October 3, 2018, and the results were in-compliance with the DEP's standards. These chemical analyses are performed every three years; therefore, the next scheduled analysis should be completed in 2021.

The Utility's Attempt to Address Customer Satisfaction

Staff reviewed the Commission's complaint records from January 2014 through January 2020. The Commission received six complaints from 2014 to 2017 while the utility was known as Kincaid Hills Water Company. During this time, DEP also received a total of four complaints with two occurring in 2014 and two occurring in 2017. In July 2014, the DEP received two complaints regarding low water pressure and chlorine residue. Both complaints were investigated and closed with no further action. One of the DEP complaints received in 2017 concerned lawn maintenance at the water treatment plant with the other concerning the placement of a meter on customer property. All of these complaints were received prior to the utility's transfer to Gator in December 2018. There have been no customer complaints received against the utility from 2018 through January 2020.

Gator reported that it had received 89 customer complaints from 2014 through 2019. The utility stated that the majority of the calls were concerning low pressure or no water due to line breaks. The low pressure calls were prior to the completion of the water plant rehabilitation projects. The water treatment plant, wells, and tanks were deteriorated and needed to be replaced. In addition, numerous complaints concerned line breaks, which have been repaired. As a result of these repairs, the utility states that the water pressure issues have subsided.

Staff held a customer meeting on November 13, 2019 at the Headquarters Branch Library. Four customers attended and three spoke. One customer acknowledged his satisfaction with the decrease in service outages while two customers were dissatisfied with the proposed increase in

the water rates. The Commission has not received any additional customer complaints or concerns through January 31, 2020.

Conclusion:

The utility is in-compliance with DEP and has been responsive to its customer complaints. Therefore, the quality of service provided by Gator should be considered satisfactory.

Issue 2: Are the infrastructure and operating conditions of Gator's water system in compliance with DEP regulations?

Recommendation: Yes. The utility's water treatment facility is currently in-compliance with DEP regulations. (Knoblauch, Lewis)

Staff Analysis: Rule 25-30.225(2), F.A.C., requires each water utility to maintain and operate its plant and facilities by employing qualified operators in accordance with the rules of the DEP. Rule 25-30.433(2), F.A.C., requires consideration of whether the infrastructure and operating conditions of the plant and facilities are in compliance with Rule 25-30.225, F.A.C. In making this determination, the Commission must consider any testimony of the DEP and county health department officials, sanitary surveys, citations, violations, and consent orders issued to the utility, customer testimony, comments, and complaints, and utility testimony and responses to the aforementioned items.

Water System Operating Conditions

Gator's water system has a design capacity of 236,400 gallons per day (gpd). The utility's water system has two wells with a combined pumping capacity of 400 gallons per minute (gpm). On October 3, 2018, the utility was issued a permit from the DEP for removal of the existing storage and hydro-pneumatic tanks, and installation of a new 5,000 gallon capacity hydro-pneumatic tank. Additionally, the site piping and appurtenances were replaced, along with the utility's emergency generator. Staff reviewed Gator's sanitary surveys conducted by the DEP to determine the utility's overall water facility compliance. A review of the inspection conducted on July 24, 2019, indicated that Gator's water treatment facility was in compliance with the DEP's rules and regulations.

Conclusion

Gator's water treatment facility is currently in compliance with DEP regulations.

Issue 3: What are the used and useful (U&U) percentages of Gator's water treatment plant (WTP) and water distribution system?

Recommendation: Staff recommends that Gator's WTP and water distribution system 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 chemicals and purchased power. (Knoblauch, Lewis)

Staff Analysis: Gator's WTP has two wells rated at a combined 400 gpm. The utility's water system does not have a storage tank, but has one hydro-pneumatic tank totaling 5,000 gallons in capacity. The distribution system is composed of varying sizes, from 2 to 6 inch, polyvinyl chloride (PVC) and asbestos cement (AC) pipes.

Water Treatment Plant Used and Useful

This is the utility's first staff-assisted rate case since receiving its grandfather certificate in 1993.⁴ Therefore, this is the first determination of used and useful percentages by the Commission.

Rule 25-30.4325, F.A.C., addresses the method by which the U&U of a water system is determined. The formula for calculating U&U for the WTP is given by $[2 \times (\text{Maximum Day Peak Demand} - \text{EUW}) / 1,440 + \text{Fire Flow} + \text{Growth}] / \text{Firm Reliable Capacity}$. Peak demand is based on a peak hour for a water treatment system with no storage capacity. The formula for calculating peak hour demand is given by $[(\text{SMD} - \text{EUW}) / 1,440] \times 2$, where SMD is the single maximum day in the test year where there is no unusual occurrence on that day, such as a fire or line break. Based on the Monthly Operating Reports that the utility files with the DEP, the SMD in the test year was 191,150 gpd. As discussed below, there appears to be no EUW. Therefore, the peak hour demand is calculated to be 265 gpm $[(191,150 \text{ gpd} - 0) / 1,440] \times 2$.

The utility does not currently own any fire hydrants; consequently, there is no Fire Flow.⁵ Growth allowance is based on the requirements outlined in Rule 25-30.431, F.A.C., which states that a linear regression analysis using average equivalent residential connections (ERCs) for the last 5 years should be used to determine growth. Staff attempted to obtain ERC data for the period of 2014-2018; however, no data was available for 2017. Instead, staff utilized data from 2013-2016 and 2018 to perform a linear regression over 5 years, and the growth was calculated to be 14 gpm. Firm Reliable Capacity assumes loss of the largest capacity well (250 gpm) and is therefore 150 gpm. This calculation results in a U&U greater than 100 percent; as such, staff recommends the WTP be considered 100 percent U&U.

Excessive Unaccounted for Water

Rule 25-30.4325, F.A.C., defines EUW as "unaccounted for water in excess of 10 percent of the amount produced." Unaccounted for water is all water produced that is not sold, metered, or accounted for in the records of the utility. In determining whether adjustments to plant and operating expenses are necessary in accordance with Rule 25-30.4325(10), F.A.C., staff considers several factors. These include (1) the causes of EUW, (2) any corrective action taken, or (3) the economical feasibility of a proposed solution. EUW is calculated by subtracting both

⁴Order No. PSC-93-1027-FOF-WU, issued July 13, 1993, in Docket No. 19921195-WU, *In re: Application for certificate to provide water service in Alachua County under grandfather rights by Kincaid Hills Water Company.*

⁵New fire hydrants discussed in Issue 4.

the gallons sold to customers and the gallons used for other services, such as flushing, from the total gallons pumped for the test year.

The Monthly Operating Reports indicate that the utility pumped 39,264,456 gallons during the test year. In response to a staff data request, the utility indicated that it purchased no water and estimated 9,637,134 gallons for other uses, such as flushing or water line breaks, during the test year. According to the billing data, the utility sold 25,735,000 gallons of water for the test year. When both the gallons sold and water used for other uses is subtracted from the total gallons pumped, 3,892,322 gallons are unaccounted for. The formula for unaccounted for water is given by $[\text{gallons of unaccounted for water} / (\text{total gallons pumped} + \text{gallons purchased})]$. The resulting unaccounted for water is 9.9 percent; therefore, there is no excessive unaccounted for water. Accordingly, staff recommends no adjustment to purchased power and chemical expenses due to EUW.

Water Distribution System Used and Useful

The water distribution system is evaluated based on ERCs consisting of growth, customer demand, and system capacity. The customer demand is 335 ERCs for the test year and the system capacity is 365 ERCs, resulting in a U&U percentage of 92 percent for the distribution system. However, the utility provided that there are only four vacant lots in the service territory; thus, the system is virtually built out. Considering all of the water mains are required to adequately serve the existing customers, and consistent with prior Commission practice, staff recommends the distribution system be considered 100 percent U&U.⁶

Conclusion

Staff recommends that Gator's WTP and water distribution system be considered 100 percent U&U. There appears to be no EUW; therefore, staff recommends that no adjustment be made to operating expenses for chemicals and purchased power.

⁶Order No. PSC-98-1269-FOF-WS, issued September 24, 1998, in Docket No. 19971401-WS, *In re: Application for staff-assisted rate case in Bay County by Bayside Utilities, Inc.*
Order No. PSC-11-0345-PAA-WS, issued August 16, 2011, in Docket No. 20100359-WS, *In re: Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities, Incorporated.*

Issue 4: Should the Commission approve a year-end rate base for Gator and if so, what is the appropriate year-end rate base?

Recommendation: Yes. The Commission should approve a year-end rate base for Gator. The appropriate year-end test year rate base is \$548,722. (Wilson, T. Brown, Knoblauch)

Staff Analysis: The appropriate components of a utility's rate base include utility plant in service, contributions in aid of construction (CIAC), accumulated depreciation, amortization of CIAC, and working capital. This utility has never had a SARC before the Commission. The utility's rates, charges, and customer deposits were approved in the original grandfather certificate in 1993.⁷ The rates were subsequently amended through three price index increases. The utility requested the test year ended March 31, 2019, for the instant case. Commission audit staff determined that the utility's books and records are in compliance with the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA). A summary of each component of rate base and staff's recommended adjustments are discussed below.

Year-End Rate Base

In its application, the utility requested a year-end rate base for its water system in order to have an opportunity to recover its allowed rate of return on the significant capital improvements that were made during the test year to install a new well and make additional plant improvements to address water quality concerns. In the transfer order, the Commission approved net utility plant in service in the amount of \$92,804, and total rate base of \$63,321. In the utility's 2018 annual report, Gator reported total plant in service of \$466,889 and net plant of \$205,755. This represents an increase in net plant in service of more than 120 percent. Subsequent to the acquisition of the utility, Gator made substantial improvements to the water system. The utility repaired numerous water main breaks over the past year totaling over \$67,000 to date. In addition, during 2018, Gator replaced over 250 meters that were inoperable at a cost of over \$40,000. If an average rate base is used, the utility will not be afforded the opportunity to recover its allowed rate of return on the new investment and will be put in the position of requesting a subsequent SARC at a later date.

The Commission has the authority to apply a year-end rate base, but should only apply a year-end rate base in extraordinary circumstances.⁸ Staff believes extraordinary circumstances exist in the instant case. Following the recent transfer of the utility, Gator stated that the water system was in immediate need of repairs. A complete rehabilitation of the existing WTP was completed, which included a new hydro-pneumatic tank, generator, well pump, disinfection system, disinfection shed, storage unit, and supply mains. The year-end rate base will provide the utility with an opportunity to recover the investment made to improve water quality and provide for compensatory rates for this utility in this rate case. The Commission has previously authorized

⁷Order No. PSC-93-1027-FOF-WU, issued July 13, 1993, in Docket No. 19921195-WU, *In re: Application for certificate to provide water service in Alachua County under grandfather rights by Kincaid Hills Water Company.*

⁸*See, Citizens of Florida v. Hawkins*, 356 So. 2d 254, (Fla 1978).; also *Miami V. Florida Public Service Commission*, 208 So. 2d 249 (Fla. 1968).

the use of a year-end rate base in other cases involving significant test year improvements.⁹ Therefore, staff recommends that the Commission approve a year-end rate base for Gator.

Utility Plant in Service (UPIS)

The utility recorded a test year UPIS balance of \$468,703. Based on audit staff's review of the utility's books and records, no adjustments were necessary to reflect the appropriate UPIS test year balances. However, the utility also filed three separate requests for consideration of pro forma plant in this docket. The first project, included with the utility's initial filing, totaled \$158,790 for a rehabilitation and replacement project of the water treatment plant. The utility provided staff with invoices. The second, filed on July 29, 2019, was for the replacement of water mains on two of the streets in the service territory that have experienced a high number of leaks and the addition of three new fire hydrants for added fire protection for the customers. The utility received three bid proposals for the project, and the bid with the lowest cost of \$204,650 was selected. The third request, dated September 23, 2019, was for \$13,204 related to emergency repairs. The utility provided staff with invoices for the repairs. In total, Gator has requested recovery of \$376,644 (\$158,790 + \$204,650 + \$13,204) in pro forma plant in this docket.

Staff calculated pro forma plant retirements based on Commission practice that a factor of 75 percent of replacement cost be used for retirements. Staff believes the amount of retirement to plant in service and accumulated depreciation reflected in the adjusted test year should be calculated based on either the 75 percent methodology or on the actual balance in the impacted plant in service account as of March 31, 2019, if that balance would be negative as a result of the 75 percent methodology. Therefore, when a retirement results in a negative plant balance, staff limited the retirement amount to the test year plant balance so there would be no negative plant. This situation occurred in five plant accounts in this docket, as reflected in Table 4-1 on the following page.

⁹Order No. PSC-98-0763-FOF-SU, issued June 3, 1998, in Docket No. 19971182-SU, *In re: Application for staff-assisted rate case in Marion County by BFF Corp.*; Order No. PSC-00-1774-PAA-WU, issued September 27, 2000, in Docket No. 19991627-WU, *In re: Application for rate increase in Polk County by Park Water Company Inc.*; Order No. PSC-01-0323-PAA-WU, issued February 5, 2001, in Docket No. 20000580-WU, *In re: Application for staff-assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc. (Alturas Water Works)*; and Order No. PSC-02-1449-PAA-WS, issued October 21, 2002, in Docket No. 20011451-WS, *In re: Investigation of water and wastewater rates for possible overearnings by Plantation Bay Utility Co. in Volusia County*; Order No. PSC-2017-0428-PAA-WS, issued November 7, 2017, in Docket No. 20160195-WS, *In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.*, and Order No. PSC-2018-0553-PAA-WU, issued November 19, 2018, in Docket No. 20180021-WU, *In re: Application for staff-assisted rate case in Highlands County by Country Walk Utilities, Inc.*

**Table 4-1
 Capped Pro Forma Plant Retirements**

Plant Account	Staff Calculated Retirement	TY Plant Balance	Difference
304	\$35,566	\$12,500	(\$23,066)
309	\$28,325	\$1,500	(\$26,825)
310	\$27,427	\$18,300	(\$9,127)
330	\$25,990	\$24,905	(\$1,085)
333	\$62,187	\$5,716	(\$56,471)

Source: Audit Report and staff calculations.

Table 4-2 reflects staff's recommended UPIS adjustments, by account.

**Table 4-2
 Pro Forma UPIS Adjustments**

Account	Pro Forma Plant	Pro Forma Retirement
304	\$47,422	\$12,500
307	1,980	1,485
309	37,766	1,500
310	36,569	18,300
311	639	479
320	400	300
330	34,653	24,905
331	123,893	92,920
333	82,916	5,716
334	656	492
335	9,750	0
Total	<u>\$376,644</u>	<u>\$158,597</u>

Staff also made corresponding adjustments to accumulated depreciation (elsewhere in this issue), while depreciation expense and TOTI adjustments for taxes related to pro forma plant are discussed in Issue 7. Staff's adjustments to UPIS result in a net increase of \$218,047 (\$376,644 - \$158,597). Therefore, staff recommends a UPIS balance of \$686,750 (\$468,703 + \$218,047).

Land & Land Rights

The utility recorded a test year land balance of \$8,000. The Commission approved a land balance of \$8,000 in the utility's 2018 transfer docket.¹⁰ There have been no additions to land since the

¹⁰Order No. PSC-2018-0587-PAA-WU, issued December 17, 2018, in Docket No. 20180066-WU, *In re: Application for transfer of facilities of Kincaid Hills Water Company and Water Certificate No. 555-W to Gator Waterworks, Inc.*

transfer; therefore, no adjustments are necessary. Staff recommends a land and land rights balance of \$8,000.

Used & Useful

As discussed in Issue 3, Gator’s WTP and distribution system are considered 100 percent U&U. Therefore, no U&U adjustments are necessary.

Accumulated Depreciation

Gator recorded a test year accumulated depreciation balance of \$265,341. Staff increased accumulated depreciation by \$167 to reflect depreciation pursuant to Rule 25-30.140, F.A.C. In addition, staff made adjustments to accumulated depreciation based on the pro forma plant recommended in UPIS. Like the capped retirements discussed above, staff believes pro forma accumulated depreciation adjustments should be limited to the actual account balance when the adjustment would exceed the accumulated depreciation balance as of March 31, 2019. This situation impacted the same five accounts discussed above, as reflected in Table 4-3 below.

**Table 4-3
 Capped Pro Forma Acc. Depreciation Adjustments**

Account	Staff Calculated Acc. Dep. Adj.	TY Acc. Dep. Balance
304	\$35,566	\$6,497
309	\$28,325	\$316
310	\$27,427	\$18,300
330	\$25,990	\$20,984
333	\$62,187	\$82

Source: Audit Report and staff calculations.

Table 4-4 reflects staff’s recommended accumulated depreciation adjustments, by account.

**Table 4-4
 Pro Forma Acc. Depreciation Adjustments**

Account	Recommended Acc. Dep. Adj.
304	\$6,497
307	1,485
309	316
310	18,300
311	479
320	300
330	20,984
331	92,920
333	82
334	492
335	(244)
Total	<u>\$141,611</u>

Staff's adjustments to accumulated depreciation result in a net decrease of \$141,444 (-\$167 + \$141,611). Therefore, staff recommends an accumulated depreciation balance of \$123,897 (\$265,341 - \$141,444).

Contribution in Aid of Construction (CIAC)

The utility recorded a test year CIAC balance of \$165,685. Based on staff's review, no adjustment is necessary. Therefore, staff recommends that the appropriate balance is \$165,685.

Accumulated Amortization of CIAC

The utility recorded a test year accumulated amortization of CIAC balance of \$134,990. Based on staff's review, accumulated amortization of CIAC should be reduced by \$686. Therefore, staff recommends that the appropriate balance is \$134,304 (\$134,990 - \$686).

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(3), F.A.C., staff used the one-eighth of the operation and maintenance (O&M) expense formula approach for calculating the working capital allowance. Section 367.081(9), F.S., prohibits a utility from earning a return on the unamortized balance of rate case expense. As such, staff removed the rate case expense balance of \$661 for this calculation resulting in an adjusted O&M expense balance of \$73,997 (\$74,658 - \$661). Applying this formula approach to the adjusted O&M expense balance, staff recommends a working capital allowance of \$9,250 (\$73,997/8).

Rate Base Summary

Based on the foregoing, staff recommends that the appropriate year-end test year rate base is \$548,722. Rate base is shown on Schedule No. 1-A. The related adjustments are shown on Schedule No. 1-B.

Issue 5: What is the appropriate return of equity and overall rate of return for Gator?

Recommendation: The appropriate return on equity (ROE) is 7.85 percent with a range of 6.85 percent to 8.85 percent. The appropriate overall rate of return is 7.85 percent. (Wilson, T. Brown)

Staff Analysis: Gator's capital structure consists of \$356,836 in common equity. The utility has no customer deposits. Audit staff determined that no test year adjustments were necessary. The utility's capital structure has been reconciled with staff's recommended rate base. The appropriate ROE is 7.85 percent based upon the Commission-approved leverage formula currently in effect.¹¹ Staff recommends a ROE of 7.85 percent, with a range of 6.85 percent to 8.85 percent, and an overall rate of return of 7.85 percent. The ROE and overall rate of return are shown on Schedule No. 2.

¹¹Order No. PSC-2019-0267-PAA-WS, issued July 1, 2019, in Docket No. 20190006-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 6: What are the appropriate amounts of test year revenues for Gator's water system?

Recommendation: The appropriate test year revenues for Gator's water system are \$56,781. (Bruce)

Staff Analysis: Gator recorded test year revenues of \$56,351. The water revenues included \$51,833 of service revenues and \$4,518 of miscellaneous revenues. In order to determine the appropriate test year revenues, staff applied the number of billing determinants by the rates in effect as of January 4, 2019. As a result, staff determined that service revenues should be \$52,255, which is an increase of \$422.

Staff also made an adjustment to the miscellaneous revenues. During the test year, the utility incorrectly recorded the number of late payments. Therefore, staff increased miscellaneous revenues by \$8 for late payment charges to reflect miscellaneous revenues of \$4,526. Based on the above, the appropriate test year revenues for Gator's water system, including miscellaneous revenues are \$56,781 (\$52,255 + \$4,526).

Issue 7: What is the appropriate amount of operating expense for Gator?

Recommendation: The appropriate amount of operating expense for Gator is \$112,971. (Wilson, T. Brown, Knoblauch)

Staff Analysis: Gator recorded operating expense of \$89,965 for the test year ended March 31, 2019. The test year O&M expenses have been reviewed, including invoices, canceled checks, and other supporting documentation. Staff has made a few adjustments to the utility's operating expenses as summarized below.

Operation & Maintenance Expense

Salaries and Wages – Officers (603)

The utility recorded salaries and wages – officers expense of \$5,000 in the test year to reflect the president's monthly salary of \$417. According to the utility's 2018 annual report, Gator's officers also include an accounting manager who does not receive a salary included in this amount. In addition, the utility indicated in audit work papers that the president only receives compensation through distribution of retained earnings if there are any net operating profits from operations that are not used for continuing operations or capital improvements. Staff made no adjustments to this account. As such, staff recommends salaries and wages – officers expense for the test year of \$5,000.

Purchased Power (615)

The utility recorded purchased power expense of \$12,923 in the test year. Supporting documentation confirming the purchased power expense was provided. Staff made no adjustments to this account. As such, staff recommends purchased power expense for the test year of \$12,293.

Chemicals Expense (618)

The utility recorded chemicals expense of \$669 in the test year. Supporting documentation confirming the chemicals expense was provided. Staff made no adjustments to this account. As such, staff recommends chemicals expense for the test year of \$669.

Contractual Services – Accounting (632)

The utility recorded contractual services – accounting expense of \$400. Supporting documentation confirming the accounting expense was used for preparing and filing the corporate tax preparation was provided. Staff made no adjustments to accounting expense. Therefore, staff recommends contractual services – accounting expense for the test year of \$400.

Contractual Services – Legal (633)

The utility recorded contractual services – legal expense of \$300 in the test year. Supporting documentation confirming the legal expense was provided. Staff made no adjustments to this account. As such, staff recommends contractual services – legal expense for the test year of \$300.

Contractual Services – Testing Expense (635)

The utility recorded contractual services – testing expense of \$157 in the test year. This expense only included notices for two boil water notices. Normal testing is included in the operations contract with U.S. Water Services Corporation (USWSC or U.S. Water). As a result, staff made

no adjustments. Staff recommends contractual services – testing expense for the test year of \$157.

Contractual Services - Other Expense (636)

During the test year, the utility recorded contractual services - other expense of \$49,732. Gator receives all of its operational and administrative services under a contract with an affiliated company, USWSC. Pursuant to the contract, Gator employed the services of USWSC to perform various functions: administrative management, operations, maintenance, and billing/collection for the utility. These include management and financial oversight, water system operations, maintenance, and customer service. The USWSC contract dated February 24, 2018, was originally in the amount of \$49,732. According to the utility, this contract amount has increased to \$50,906 as a result of an index increase.¹² This represents a known and measurable increase of \$1,174 (\$50,906 - \$49,732) over the amount included in the test year.

On August 9, 2019, Gator submitted documentation containing additional information related to its outside contractual services agreement with USWSC.¹³ According to Gator, USWSC currently operates in 60 of Florida's 67 counties, providing service to over 1,000 utility systems and services to over 1,000,000 customers daily. USWSC's president and majority shareholder has been in the water and wastewater utility management and operations industry for over 30 years. Gator contracts with USWSC for the following services:

1. Water Operations
2. Meter Reading
3. System Maintenance and Repairs
4. Billing and Collections
5. Customer Service
6. Regulatory Affairs
7. Testing
8. Accounting
9. Office Space and Equipment

According to Gator, each of the service contracts that USWSC enters into with a utility "are different and are priced differently depending on numerous factors."¹⁴ These factors include the number of employees needed and the number of hours required per system for successful operation. Additional considerations include whether USWSC provides chemicals, power, offices, vehicles, etc., or if these items are provided by the utility.

Staff notes that similar relationships currently exist for three other regulated utilities in Marion County; BFF Corp. (BFF), C.F.A.T. H2O, Inc. (CFAT), and Tradewinds Utilities, Inc. (Tradewinds). All have contractual service agreements with MIRA International, Inc. (MIRA). Their respective agreements cover similar services to those included in the agreement between Gator and USWSC. In addition to a relationship established by their contractual service agreements, the same individuals own the three utilities listed above and MIRA. As such, the relationship is similar to that of Gator and USWSC.

¹²Document No. 07317-2019, filed August 9, 2019, pg. 5.

¹³Document No. 07317-2019.

¹⁴Document No. 07317-2019, pg. 7.

As detailed in Table 7-1 below, based on the three most recent annual reports, CFAT has an average O&M expense of \$267.92 per ERC, and Tradewinds has an average O&M expense of \$215.60 per ERC. BFF is a wastewater only utility and is not included in staff's comparison below. Gator was not included in the table because only the 2018 Annual Report was available due to a recent change in ownership.

**Table 7-1
Comparable Water O&M Expense Per ERC**

Annual Report Year	CFAT (227 ERCs)	Tradewinds¹⁵ (616 ERCs)
2016	\$222.31	\$197.94
2017	\$278.85	\$239.02
2018	\$302.61	\$209.84
3-Year Average	\$267.92	\$215.60

Source: CFAT and Tradewinds 2016-2018 Annual Reports, staff calculations.

Under staff's proposed revenue requirement, Gator's O&M expense is \$213.31 per ERC. This proposed expense is 20.38 percent less than that of CFAT and 1.06 percent less than Tradewinds.

Additional support offered by Gator included the "2016 American Water Works Association Benchmarking Performance Indicators for Water and Wastewater" (AWWA Benchmark) and an independent third-party contract and benchmarking review commissioned by the Florida Governmental Utility Authority (FGUA), which was issued in 2013. According to the AWWA Benchmark, the median O&M expense per account of the 44 water companies surveyed is \$430.71, including customer service costs. This figure is 101.92 percent higher than the per ERC O&M expense (\$213.31) staff is recommending for Gator.

The contract and benchmarking review commissioned by FGUA was undertaken to review charges by USWSC in comparison to similar water and wastewater utilities throughout the United States. The FGUA study concluded that the USWSC costs on a per account basis fell within the top quartile (lower cost) of other utilities.¹⁶ These were charges to FGUA by USWSC. While the utility has represented that there was a flaw in the data presented in the 2013 study, staff's greater concern is the age of some of the underlying data, which can be tied to AWWA's 2011 Benchmarking Performance Indicators. As such, staff believes that the 2016 Benchmarking Performance Indicators are a more appropriate reference point.

In its filing, Gator asserted that if it was required to establish a stand-alone utility with personnel for maintenance, customer service, accounting, regulatory compliance, etc., the cost would exceed that of the current USWSC contract.¹⁷ As the utility noted in its supplemental filing, O&M expenses would be incurred regardless of the size of the customer base. In regard to the appropriateness of utility contracts with affiliated companies, the utility cited *GTE v. Deason*, 642 So. 2d 545 (Fla. 1994), in which the Florida Supreme Court stated:

The mere fact that a utility is doing business with an affiliate does not mean that unfair or excess profits are being generated, without more. Charles F. Phillips, Jr., *The Regulation of Public Utilities* 254-255 (1988). We believe the standard must

¹⁵Tradewinds is a Class B utility.

¹⁶Document No. 07317-2019, pg. 36.

¹⁷Document No. 07317-2019, pg. 7.

be whether the transactions exceed the going market rate or are otherwise inherently unfair . . . [i]f the answer is “no,” then the PSC may not reject the utility’s position.¹⁸

Staff compared Gator to six “sister” water utilities that had rate cases approved in the last five years, by calculating a three-year average O&M expense per ERC using information contained in each utility’s 2016, 2017, and 2018 Annual Reports.¹⁹ Staff then compared Gator to five non-U.S. Water affiliated water utilities using the same criteria. Based on that criteria, the average O&M expense per ERC of the sister utilities was \$331.47. The average O&M expense per ERC for the non-U.S. Water utilities was \$486.71. Gator would have O&M expense of \$213.31 per ERC under staff’s recommended revenue requirement. Table 7-2 reflects the O&M expense per ERC for Gator, and the average O&M expense per ERC for its U.S. Water sister utilities, and non-U.S. Water utilities.

**Table 7-2
 Water O&M Expense Per ERC**

Utility	O&M Exp./ERC
U.S. Water Sister Utilities (3-Yr. Avg.)	\$331.47
Non-U.S. Water Utilities (3-Yr. Avg.)	\$486.71
Gator (Staff Recommended)	\$213.31

Source: 2016-2018 Annual Reports and staff calculations.

Based on staff’s review, Gator’s proposed expense is 35.65 percent less than that of the sister utilities and 56.17 percent less than that of the non-U.S. Water utilities.

Staff notes that the Commission has previously approved similar USWSC agreements and related costs in prior cases involving nine of Gator’s sister utilities during eleven rate case proceedings.²⁰ Two sister utilities, LP Waterworks, Inc. and Lakeside Waterworks, Inc., each had two SARCs in which this Commission reviewed and approved expenses related to USWSC

¹⁸Document No. 07317-2019, pg. 8.

¹⁹Pine Harbour Waterworks, Inc. was not used in staff’s calculations since three years of annual reports were not available.

²⁰Order No. PSC-14-0413-PAA-WS, issued August 14, 2014, in Docket No. 20130153-WS, *In re: Application for staff-assisted rate case in Highlands County, by L.P. Utilities Corporation c/o LP Waterworks, Inc.*; Order No. PSC-15-0013-PAA-WS, issued January 2, 2015, in Docket No. 20130194-WS, *In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.*; Order No. PSC-15-0282-PAA-WS, issued July 8, 2015, in Docket No. 20140158-WS, *In re: Application for increase in water/wastewater rates in Highlands County by HC Waterworks, Inc.*; Order No. PSC-15-0329-PAA-WU, issued August 14, 2015, in Docket No. 20140186-WU, *In re: Application for staff-assisted rate case in Brevard County by Brevard Waterworks, Inc.*; Order No. PSC-15-0335-PAA-WS, issued August 20, 2015, in Docket No. 20140147-WS, *In re: Application for staff-assisted rate case in Sumter County by Jumper Creek Utility Company*; Order No. PSC-16-0256-PAA-WU, issued June 30, 2016, in Docket No. 20150199-WU, *In re: Application for staff-assisted rate case in Lake County by Raintree Waterworks, Inc.*; Order No. PSC-16-0305-PAA-WU, issued July 28, 2016, in Docket No. 20150236-WU, *In re: Application for staff-assisted rate case in Lake County, by Lake Idlewild Utility Company*; Order No. PSC-2017-0334-PAA-WS, issued August 23, 2017, in Docket No. 20160222-WS, *In re: Application for staff-assisted rate case in Highlands County by LP Waterworks, Inc.*; Order No. PSC-2017-0428-PAA-WS, issued November 7, 2017, in Docket No. 20160195-WS, *In re: Application for staff-assisted rate case in Lake County by Lakeside Waterworks, Inc.*; Order No. PSC-2018-0552-PAA-WU, issued November 19, 2018, in Docket No. 20180022-WU, *In re: Application for staff-assisted rate case in Lake County by Pine Harbour Waterworks, Inc.*; and Order No. PSC-2018-0553-PAA-WU, issued November 19, 2018, in Docket No. 20180021-WU, *In re: Application for staff-assisted rate case in Highlands County by Country Walk Utilities, Inc.*

management services contracts. In addition to this docket, two additional sister utilities with similar contracts have SARCs pending at this time,²¹ and a third has a file and suspend rate case pending.²²

In addition, staff believes that USWSC and its employees bring considerable management and operational experience at a comparably reasonable cost. As a result, staff believes that Gator's customers are realizing operational and cost benefits that might not be realized if the utility operated on a stand-alone basis. Staff notes that the utility, through its contract with USWSC, has made significant plant improvements that should result in improved quality of service.

Based on the discussion above, staff believes Gator's contractual services agreement with USWSC appears reasonable when compared to other utilities with similar agreements. The agreement also appears reasonable when compared to O&M expenses of industry peers as reflected in the AWWA Benchmark. Staff believes that Gator's USWSC contract is appropriate, the adjusted cost is reasonable, and should be included in the utility's proposed rates because it is known, measurable, and already in effect. Therefore, staff recommends contractual services - other expense for the test year of \$50,906

Insurance Expense (655)

The utility recorded insurance expense of \$1,256 in the test year. Staff increased this amount by \$251 to reflect the annualized expense to the utility. Therefore, staff recommends insurance expense for the test year of \$1,507 (\$1,256 + \$251).

Regulatory Commission Expense (665)

The utility did not record any regulatory commission expense in this account. Rule 25-30.433(9), F.A.C., requires that non-recurring expenses be amortized over a five-year period unless a shorter or longer period of time can be justified. Accordingly, staff increased this account by \$300 ($\$1,500 / 5$) to reflect the five-year amortization of the 2018 certificate transfer application filing fee.²³

Regarding the instant case, the utility is required by Rule 25-22.0407, F.A.C., to provide notices of the customer meeting and notices of final rates in this case to its customers. For noticing, staff estimated \$728 for postage expense, \$331 for printing expense, and \$66 for envelopes. This results in \$1,125 ($\$728 + \$331 + \66) for the noticing requirement. The utility paid a \$1,000 rate case filing fee. The utility requested travel and lodging expense of \$250 to attend the customer meeting and \$250 to attend the Commission Conference. Staff increased the utility's customer meeting travel expense by \$137 to reflect mileage and actual lodging cost for two utility employees to attend. This results in travel expense of \$387 ($\$250 + \137) for the customer meeting. Staff also reduced the cost of travel to attend the Commission Conference in order to reflect the actual cost of lodging for one employee and appropriate mileage.²⁴ Staff believes that the travel for the Commission Conference should be shared with Merritt Island Utility Company

²¹Docket No. 20190116-SU, *In re: Application for staff-assisted rate case in Brevard County, and request for interim rate increase by Merritt Island Utility Company*; and Docket No. 20190125-WS, *In re: Application for staff-assisted rate case in Sumter County by The Woods Utility Company*.

²²Docket No. 20190166-WS, *In re: Application for increase in water rates in Highlands County by HC Waterworks, Inc.*

²³Docket No. 20180066-WU, *In re: Application for transfer of facilities of Kincaid Hills Water Company and Water Certificate No. 555-W to Gator Waterworks, Inc.*

²⁴Document No. 00605-2020, filed January 28, 2020.

and The Woods Utility Company. The utilities are sister utilities of Gator which have SARCs scheduled for the same Commission Conference. As such, staff believes it is appropriate to split travel costs to the Commission Conference equally between the three utilities, or \$130 (\$389 / 3) per utility. This results in a reduction of \$120 (\$130 - \$250) for Gator's travel expense to the Commission Conference. As such, staff recommends travel expense of \$517 (\$387 + \$130). Staff notes that the Commission previously approved rate case related travel expenses ranging from \$413 to \$1,570 in the nine most recent dockets for Gator's sister utilities. Based on staff's review, the requested travel expense appears reasonable.

Based on the discussion above, staff recommends total rate case expense of \$2,642 (\$1,125 + \$1,000 + \$517), which amortized over four years is \$661. Based on the discussion above, staff's total adjustment to this account is an increase of \$961 (\$300 + \$661). As such, staff's recommendation for regulatory commission expense is \$961.

Bad Debt Expense (670)

The utility recorded \$5,404 in this account for test year bad debt expense, which equals 3.46 percent of staff's recommended revenue requirement. While Commission practice is to calculate bad debt expense using a three-year average, three years of records are not yet available for the current owners. The utility provided staff with updated bad debt expense of \$1,185 for the utility in 2019.²⁵ Generally, the basis for determining bad debt expense has been whether the amount is representative of the bad debt expense to be incurred by the utility. As such, staff believes the utility's updated 2019 bad debt expense is reasonable and is likely to be representative of the utility's expected bad debt expense going forward. This represents a decrease of \$4,219 (\$1,185 - \$5,404) over the amount included in the test year. The updated amount equals 0.76 percent of staff's recommended revenue requirement. Therefore, staff recommends bad debt expense for the test year of \$1,185.

Miscellaneous Expense (675)

The utility recorded miscellaneous expense of \$650. Supporting documentation confirming the miscellaneous expense was used for an annual operating license fee through the Florida Department of Environmental Protection and the utility's annual report was provided. Staff made no adjustments to this account. As such, staff recommends miscellaneous expense for the test year of \$650.

Operation & Maintenance Expense Summary

Based on the above adjustments, staff recommends that O&M expense be decreased by \$1,833, resulting in total O&M expense of \$74,658. Staff's recommended adjustments to O&M expense are shown on Schedule No. 3-C.

Depreciation Expense (Net of Amortization of CIAC)

The utility's records reflect test year depreciation of \$16,307 and CIAC amortization of \$6,788, for a net depreciation expense of \$9,519 (\$16,307 - \$6,788). Staff calculated depreciation expense using the prescribed rates set forth in Rule 25-30.140, F.A.C., and determined test year depreciation expense to be \$16,334, resulting in an increase to this account of \$27. Staff also increased this account by \$7,106 to reflect the incremental increases in depreciation expense related to several pro forma projects, net of retirements. These projects were previously

²⁵Document No. 00801-2020, filed February 5, 2020.

discussed in Issue 4. Staff's total adjustment to depreciation expense is a net increase of \$7,133 (\$27 + \$7,106). Accordingly, staff recommends depreciation expense of \$23,440 (\$16,307 + \$7,133). In addition, staff calculated test year CIAC amortization expense of \$6,041. Accordingly, staff decreased this account by \$747 (\$6,788 - \$6,041). This results in net depreciation expense of \$17,399 (\$23,440 - \$6,041). Therefore, staff recommends net depreciation expense of \$17,399.

Taxes Other Than Income (TOTI)

Gator recorded a TOTI balance of \$3,955 during the test year, comprised of \$2,705 for Regulatory Assessment Fees (RAFs) and \$1,250 for property taxes. Staff decreased the RAFs by \$150 to reflect the adjusted test year revenues. Staff also decreased this account by \$416 to reflect the appropriate test year property taxes. The utility also requested consideration of pro forma taxes of \$10,032.²⁶ In 2018, Gator's property taxes were \$834 and no tangible taxes were assessed. Based on the utility's 2019 Alachua County tax notices,²⁷ Gator's property taxes will increase and tangible taxes will be applied. Staff increased tax expense by \$8,792 to reflect the appropriate amount of property tax going forward, based on the utility's current tax notices less a four percent discount for early payment. Additionally, staff increased this account by \$4,266 to reflect the incremental increase in property taxes associated with the pro forma projects discussed in Issue 4. This results in a net increase of \$12,492 (-\$150 - \$416 + \$8,792 + \$4,266) to TOTI.

In addition, as discussed in Issue 8, revenues have been increased by \$99,265 to reflect the change in revenue required to cover expenses and allow the recommended operating margin. As a result, TOTI should be increased by \$4,467 to reflect RAFs of 4.5 percent on the change in revenues. Staff's adjustments result in an increase of \$16,959 (\$12,492 + \$4,467). Therefore, staff recommends TOTI of \$20,914 (\$3,955 + \$16,959).

Income Tax

The utility is a Subchapter S Corporation and therefore did not record any income tax expense for the test year. Staff recommends no adjustment to income tax expense.

Operating Expenses Summary

The application of staff's recommended adjustments to Gator's test year operating expenses results in operating expenses of \$112,971. Operating expenses are shown on Schedule No. 3-A. The related adjustments are shown on Schedule Nos. 3-B and 3-C.

²⁶Document No. 08242-2019, filed on August 20, 2019 (2019 Alachua County TRIM Notices).

²⁷Document No. 10753-2019, filed on November 5, 2019 (2019 Alachua County Real Estate and Tangible Taxes Notices).

Issue 8: What is the appropriate revenue requirement for Gator?

Recommendation: The appropriate revenue requirement is \$156,046 resulting in an annual increase of \$99,265 (174.82 percent). (Wilson, T. Brown)

Staff Analysis: Gator should be allowed an annual increase of \$99,265 (174.82 percent). The calculations are shown in Table 8-1:

**Table 8-1
Revenue Requirement**

Adjusted Rate Base	\$548,722
Rate of Return (%)	x 7.85%
Return on Rate Base	\$43,075
Adjusted O&M Expense	74,658
Depreciation Expense (Net)	17,399
Taxes Other Than Income	20,914
Revenue Requirement	\$156,046
Less Adjusted Test Year Revenues	56,781
Annual Increase	<u>\$99,265</u>
Percent Increase	<u>174.82%</u>

Issue 9: What are the appropriate rate structures and rates for Gator's water system?

Recommendation: The recommended rate structures 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.

Furthermore, due to the magnitude of the revenue requirement increase, staff believes it is important to monitor whether the customers reduce consumption as expected. Therefore, staff recommends the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed, and the revenues billed. The utility should also provide the corresponding purchased power invoices. The reports should be filed in the docket file, on a quarterly basis, for a period of twelve months beginning the first billing period after the approved rates go into effect. To the extent the utility makes adjustment to consumption in any month during the reporting period, the utility should be ordered to file a revised monthly report for that month within 30 days of any revision. Staff will monitor and evaluate whether any adjustments to rates are necessary. (Bruce)

Staff Analysis: Gator is located in Alachua County within the St. Johns River Water Management District. This area has been designated as a water use caution area (WUCA). The utility provides water service to approximately 331 residential customers and four general service customers. Approximately 20 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 6,181 gallons per month. The average water demand excluding zero gallon bills is 7,683 gallons per month. Currently, the utility's water rate structure consists of a monthly base facility charge (BFC) and uniform gallonage charge for the residential and general service customers.

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

In this case, staff recommends that 33 percent of the water revenues be generated from the BFC, which will provide sufficient revenues to design gallonage charges that send pricing signals to customers using above the non-discretionary level. The average people per household served by the water system is 3; 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 5,000 gallons per month.²⁸ Staff's review of the billing analysis indicates that the discretionary usage above 5,000 represents 30 percent of the bills, which account for approximately 53 percent of the water demand. This is considered high discretionary usage for this customer base. Staff also recommends a BFC and a four-tier inclining block rate structure,

²⁸ Average person per household was obtained from www.census.gov/quickfacts/alachuacountyflorida.

which includes separate gallonage charges for discretionary and non-discretionary usage for residential water customers. The rate blocks are: (1) 0-5,000 gallons; (2) 5,001-10,000 gallons; (3) 10,000-15,000 gallons and (4) all usage in excess of 15,000 gallons per month. This rate structure sends the appropriate pricing signals because it targets customers with high consumption levels and minimizes price increases for customers at non-discretionary levels. In addition, the fourth tier provides an additional pricing signal to customers using in excess of 15,000 gallons of water per month, which represents approximately 30 percent of the usage. General service customers should be billed a BFC and uniform gallonage charge.

Based on staff's recommended revenue increase of 190 percent, which excludes miscellaneous revenues, the residential consumption can be expected to decline by 12,681,000 gallons resulting in anticipated average residential demand of 3,065 gallons per month. Staff recommends a 50.4 percent reduction in test year residential gallons for ratesetting purposes. Typically, staff makes corresponding adjustments to variable costs, which are consistent with the percentage reduction in consumption. However, the utility expressed concern that there may not be a direct relationship between the consumption repressed and the adjustments to variable costs. Staff recognizes that the utility may experience a revenue short fall if there is not a direct relationship as anticipated. Therefore, staff recommends only a 25 percent reduction to purchased power and chemical expenses. As a result, the corresponding reductions for purchased power is \$3,184, \$165 for chemicals, and \$158 for RAFs to reflect the anticipated repression, which results in a post repression revenue requirement of \$141,739.

The recommended rate structures 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.

Furthermore, due to the magnitude of the revenue requirement increase, staff believes it is important to monitor whether the customers reduce consumption as expected. Therefore, staff recommends the utility should be ordered to prepare monthly reports detailing the number of bills rendered, the consumption billed, and the revenues billed. The utility should also provide the corresponding purchased power invoices. The reports should be filed in the docket file, on a quarterly basis, for a period of twelve months beginning the first billing period after the approved rates go into effect. To the extent the utility makes adjustment to consumption in any month during the reporting period, the utility should be ordered to file a revised monthly report for that month within 30 days of any revision. Staff will monitor and evaluate whether any adjustments to rates are necessary.

Issue 10: What are the appropriate initial customer deposits for Gator's water system?

Recommendation: The appropriate initial customer deposit should be \$66 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. The approved initial customer deposits should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding. (Bruce)

Staff Analysis: Rule 25-30.311, F.A.C., provides the criteria for collecting, administering, and refunding customer deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the utility and, ultimately, the general body of ratepayers. An initial customer deposit ensures that the cost of providing service is recovered from the cost causer. Historically, the Commission has set initial customer deposits equal to two times the average estimated bill.²⁹ Currently, the utility's initial deposit for residential water is \$25 for the 5/8 inch x 3/4 inch meter size and two times the average estimated bill for the general service meter sizes. However, this amount does not cover two months' average bills based on staff's recommended rates. The utility's average monthly residential water usage after repression is 3,065 gallons per customer. Therefore, the average residential monthly bill based on staff's recommended rates is approximately \$32.90.

Staff recommends the appropriate initial customer deposits should be \$66 for the residential 5/8 inch x 3/4 inch meter size for water. 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. The approved initial customer deposits should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding.

²⁹Order No. PSC-15-0142-PAA-SU, issued March 26, 2015, in Docket No. 20130178-SU, *In re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company.*

Issue 11: Should Gator be authorized to collect Non-Sufficient Funds (NSF) charges?

Recommendation: Yes. Gator should be authorized to collect NSF charges. Staff recommends that Gator 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. The utility should provide proof of the date the notice was given within 10 days of the date of the notice. (Bruce)

Staff Analysis: Section 367.091, F.S., requires that rates, charges, and customer service policies be approved by the Commission. The Commission has authority to establish, increase, or change a rate or charge. Staff believes that Gator 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 Sections 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, or 5 percent of the face amount of the check, whichever is greater.

Approval of NSF charges is consistent with prior Commission decisions.³⁰ 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, staff recommends that Gator revise its tariffs to reflect the NSF charges currently set forth in Section 68.065, F.S. The NSF charges should be effective after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the NSF charges should not be implemented until staff has approved the proposed customer notice. The utility should provide proof of the date the notice was given within 10 days of the date of the notice.

³⁰Order Nos. PSC-10-0364-TRF-WS, issued June 7, 2010, in Docket No. 100170-WS, *In re: Application for authority to collect non-sufficient funds charges, pursuant to Sections 68.065 and 832.08(5), F.S., by Pluris Wedgefield Inc.*; and PSC-10-0168-PAA-SU, issued March 23, 2010, in Docket No. 090182-SU, *In re: Application for increase in wastewater rates in Pasco County by Ni Florida, LLC.*

Issue 12: Should Gator's request to implement a \$6.50 late payment charge be approved?

Recommendation: Yes. The utility's request to implement a \$6.50 late payment charge should be approved. Gator should be required to file a proposed customer notice 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 and the notice has been received by customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Bruce)

Staff Analysis: Gator is requesting a \$6.50 late payment charge to recover the cost of labor, supplies, postage, and RAFs associated with processing late payment notices. Gator's current late payment charge is \$2.00. However, the utility is requesting \$6.50 for its late payment charge, which is consistent with Commission practice and its sister utilities managed by U.S. Water.³¹ 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. 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.

Gator calculated the actual costs for its late payment charges to be \$8.07. The utility indicated that it will take approximately 15 minutes per account to research, compile, and produce late notices. The delinquent customer accounts will be processed by the administrative contract employee, which results in labor cost of \$7.00 (\$28.00 x 0.25hr). This is consistent with prior Commission decisions where the Commission has allowed 10-15 minutes per account per month for the administrative labor associated with processing delinquent customer accounts.³² However, \$8.07 would be the highest late payment charge amongst all other water and wastewater utilities regulated by the Commission.³³ Therefore, the utility is requesting a charge of \$6.50, consistent with recent Commission decisions. The utility's calculation for its actual costs associated with a late payment charge is shown in Table 12-1.

³¹Order No. PSC-2018-0334-PAA-WU, issued June 28, 2018, in Docket No. 20170155-WU, *In re: Application for grandfather water certificate in Leon County and application for pass through increase of regulatory assessment fees, by Seminole Waterworks, Inc.*

³²Order Nos. PSC-16-0041-TRF-WU, issued January 25, 2016, in Docket No. 20150215-WU, *In re: Request for approval of tariff amendment to include miscellaneous service charges for the Earlene and Ray Keen Subdivisions, the Ellison Park Subdivision and the Lake Region Paradise Island Subdivision in Polk County, by Keen Sales, Rentals and Utilities, Inc.* and PSC-15-0569-PAA-WS, issued December 16, 2015, in Docket No. 20140239-WS, *In re: Application for staff-assisted rate case in Polk County by Orchid Springs Development Corporation.*

³³Order Nos. PSC-14-0105-TRF-WS, issued February 20, 2014, in Docket No. 20130288-WS, *In re: Request for approval of late payment charge in Brevard County by Aquarina Utilities, Inc.*; PSC-15-0535-PAA-WU, issued November 19, 2015, in Docket No. 20140217-WU, *In re: Application for staff-assisted rate case in Sumter County by Cedar Acres, Inc.*; and PSC-15-0569-PAA-WS, issued December 16, 2015, in Docket No. 20140239-WS, *In re: Application for staff-assisted rate case in Polk County by Orchid Springs Development Corporation.*

Table 12-1
Late Payment Charge Cost Justification

Activity	Cost
Labor	\$7.00
Supplies	\$0.22
Postage	\$0.49
Markup for RAFs	\$0.36
Total Cost	\$8.07

Source: Utility's cost justification documentation

Based on the above, Gator's request to implement a \$6.50 late payment charge should be approved. The utility should be required to file a proposed customer notice 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 after staff has approved the proposed customer notice and the notice has been received by customers. The utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 13: Should Gator's miscellaneous service charges be revised?

Recommendation: Yes. The miscellaneous service charges identified in Table 13-5 are appropriate and 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. (Bruce)

Staff Analysis: Gator's current miscellaneous service charges were approved on July 13, 1993.³⁴ Section 367.091, F.S., authorizes the Commission to change miscellaneous service charges. The utility's request to revise its miscellaneous charges was accompanied by its reason for requesting the charges, as well as the cost justification required by Section 367.091(6), F.S. The requested charges are consistent with those recently approved for its sister companies LP and Country Walk.³⁵ The calculations for charges for miscellaneous service charges, shown in the tables below, are rounded to the nearest tenth. The utility's current and staff's recommended miscellaneous service charges are shown in Table 13-5.

Initial Connection Charge

The initial connection charge is levied for service initiation at a location where service did not exist previously. A Gator 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 for Gator's water system of \$31.10 for normal hours and \$36.20 for after hours. Staff's calculations are shown below in Table 13-1.

**Table 13-1
 Initial Connection Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$28/hr x 1/4hr)	\$7.00	Labor (Administrative) (\$28/hr x 1/4hr)	\$7.00
Labor (Field) (\$30.42/hr x 1/3 hr)	\$10.14	Labor (Field) (\$45.63/hr x 1/3 hr)	\$15.21
Transportation (\$0.535/mile x 26 miles-to/from)	\$13.91	Transportation (\$0.535/mile x 26 miles-to/from)	\$13.91
Total	\$31.05	Total	\$36.12

³⁴Order No. PSC-93-1027-FOF-WU, issued July 13, 1993, in Docket No. 921195-WU, *In re: Application for certificate to provide water service in Alachua County under grandfather rights by Kincaid Hills Water Company.*

³⁵Order Nos. PSC-2018-0553-PAA-WU, issued November 19, 2018, in Docket No. 20180021-WU, *In re: Application for staff-assisted rate case in Highlands County by Country Walk Utilities, Inc.*; PSC-2017-0334-PAA-WS, issued August 23, 2017, in Docket No. 20160222-WS, *In re: Application for staff-assisted rate case in Highlands County by LP Waterworks, Inc.*

Normal Reconnection Charge

A normal reconnection charge is levied for the transfer 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 normal reconnection charges for Gator’s water system of \$57.10 for normal hours and \$64.70 for after hours. Staff calculations are shown in Table 13-2.

**Table 13-2
 Normal Reconnection Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$28/hr x 1/4hr x 2)	\$14.00	Labor (Administrative) (\$28/hr x 1/4hr)	\$14.00
Labor (Field) (\$30.42/hr x 1/4 hr x 2)	\$15.21	Labor (Field) (\$45.63/hr x 1/4hr x 2)	\$22.82
Transportation (\$0.535/mile x 26 miles-to/from x 2)	\$27.82	Transportation (\$0.535/mile x 26 miles-to/from x 2)	\$27.82
Total	\$57.03	Total	\$64.64

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 for Gator’s water system of \$57.10 for normal hours and \$64.70 for after hours. Staff’s calculations are shown in Table 13-3.

**Table 13-3
 Violation Reconnection Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$28/hr x 1/4hr x 2)	\$14.00	Labor (Administrative) (\$28/hr x 1/4hr x 2)	\$14.00
Labor (Field) (\$30.42/hr x 1/4 hr x 2)	\$15.21	Labor (Field) (\$45.63hr x 1/4 hr x 2)	\$22.82
Transportation (\$0.535/mile x 26 miles-to/from) x 2	\$27.82	Transportation (\$0.535/mile x 26 miles-to/from) x 2	\$27.82
Total	\$57.03	Total	\$64.64

Premises Visit Charge

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 charge 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 \$31.10 for normal hours and \$36.20 for after hours. Staff's calculations are shown in Table 13-4.

**Table 13-4
 Premises Visit Charge Calculation**

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$28.00/hr x 1/4hr)	\$7.00	Labor (Administrative) (\$28.00/hr x 1/4hr)	\$7.00
Labor (Field) (\$30.42/hr x 1/3 hr)	\$10.14	Labor (Field) (\$45.63/hr x 1/3 hr)	\$15.21
Transportation (\$0.535/mile x 26 miles-to/from)	\$13.91	Transportation (\$0.535/mile x 26 miles-to/from)	\$13.91
Total	\$31.05	Total	\$36.12

**Table 13-5
 Miscellaneous Service Charges**

	Current	Staff Recommended	
	Normal and After Hours	Normal Hours	After Hours
Initial Connection Charge	\$15.00	\$31.10	\$36.20
Normal Reconnection Charge	\$15.00	\$57.10	\$64.70
Violation Reconnection Charge	\$15.00	\$57.10	\$64.70
Premises Visit Charge	\$10.00	\$31.10	\$36.20

Conclusion

Based on the above, the miscellaneous service charges identified in Table 13-5 are appropriate and 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 14: What is the appropriate amount by which the rates should be reduced four years after the published effective date to reflect the removal of the amortized rate case expense?

Recommendation: The 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 rate case expense recovery period, pursuant to Section 367.081(8), F.S. Gator should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Bruce, Wilson, T. Brown) (Procedural Agency Action)

Staff Analysis: Section 367.081(8), F.S., requires that the rates be reduced immediately following the expiration of the recovery 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 and the gross-up for RAFs. The total reduction is \$692.

Staff recommends that the 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 rate case expense recovery period, pursuant to Section 367.081(8), F.S., Gator 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 published effective date to reflect the removal of the amortized rate case expense.

Issue 15: Should the recommended rates be approved for Gator 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. Gator 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. (Wilson, T. Brown) (Procedural Agency Action)

Staff Analysis: This recommendation proposes an increase in rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility. Therefore, pursuant to Section 367.0814(7), F.S., in the event of a protest filed by a party other than the utility, staff recommends that the recommended rates be approved as temporary rates. Gator 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.

Gator 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 \$66,889. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

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

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

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

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

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

- 1) The Commission Clerk, or his or her designee, must be a signatory to the escrow agreement;
- 2) No monies in the escrow account may be withdrawn by the utility without the express approval of the Commission;
- 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, Gator 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 16: Should Gator be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision?

Recommendation: Yes. Gator should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. Gator should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all applicable National Association of Regulatory Commissioners (NARUC) Uniform System of Accounts (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 providing good cause should be filed not less than seven days prior to the deadline. Staff should be given administrative authority to grant such an extension for up to 60 days. (Wilson) (Procedural Agency Action)

Staff Analysis: Gator should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. Gator 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 providing good cause should be filed not less than seven days prior to the deadline. Staff should be given administrative authority to grant such an extension for up to 60 days.

Issue 17: 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 Proposed Agency Action Order, a consummating order should be issued. This docket should remain open for staff's verification that the revised tariff sheets and customer notices have been filed by the utility and approved by staff. Also, the docket should remain open to allow the utility to provide the recommended reporting information. Upon staff's approval of the tariff sheets and customer notices, along with staff's completion of its review of the recommended reporting information, this docket should be closed administratively if no adjustments are necessary. (DuVal)

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 Proposed Agency Action Order, a consummating order should be issued. This docket should remain open for staff's verification that the revised tariff sheets and customer notices have been filed by the utility and approved by staff. Also, the docket should remain open to allow the utility to provide the recommended reporting information. Upon staff's approval of the tariff sheets and customer notices, along with staff's completion of its review of the recommended reporting information, this docket should be closed administratively if no adjustments are necessary.

GATOR WATERWORKS, INC.		SCHEDULE NO. 1-A	
TEST YEAR ENDED 3/31/2019		DOCKET NO. 20190114-WU	
SCHEDULE OF WATER RATE BASE			
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUSTMENTS TO UTIL. BAL.	BALANCE PER STAFF
UTILITY PLANT IN SERVICE	\$468,703	\$218,047	\$686,750
LAND & LAND RIGHTS	8,000	0	8,000
NON-USED AND USEFUL COMPONENTS	0	0	0
CIAC	(165,685)	0	(165,685)
ACCUMULATED DEPRECIATION	(265,341)	141,444	(123,897)
AMORTIZATION OF CIAC	134,990	(686)	134,304
WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>9,250</u>	<u>9,250</u>
WATER RATE BASE	<u>\$180,667</u>	<u>\$368,055</u>	<u>\$548,722</u>

GATOR WATERWORKS, INC.		SCHEDULE NO. 1-B
TEST YEAR ENDED 3/31/2019		DOCKET NO. 20190114-WU
ADJUSTMENTS TO RATE BASE		PAGE 1 OF 1
		<u>WATER</u>
<u>UTILITY PLANT IN SERVICE</u>		
1.	To reflect pro forma plant additions.	\$376,644
2.	To reflect pro forma plant retirements.	<u>(158,597)</u>
	Total	<u>\$218,047</u>
<u>ACCUMULATED DEPRECIATION</u>		
1.	To reflect audit adjustment to accumulated depreciation.	(\$167)
2.	To reflect pro forma meter replacements.	<u>141,611</u>
	Total	<u>\$141,444</u>
<u>AMORTIZATION OF CIAC</u>		
	To reflect audit adjustment.	<u>(\$686)</u>
<u>WORKING CAPITAL ALLOWANCE</u>		
	To reflect 1/8 of test year O & M expenses.	<u>\$9,250</u>

GATOR WATERWORKS, INC.				SCHEDULE NO. 2				
TEST YEAR ENDED 3/31/2019				DOCKET NO. 20190114-WU				
SCHEDULE OF CAPITAL STRUCTURE								
CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUSTMENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	ADJUSTMENTS	BALANCE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
1. COMMON STOCK	\$122,500	\$0	\$122,500					
2. RETAINED EARNINGS	(33,137)	0	(33,137)					
3. PAID IN CAPITAL	267,473	0	267,473					
4. OTHER COMMON EQUITY	<u>0</u>	<u>0</u>	<u>0</u>					
TOTAL COMMON EQUITY	<u>\$356,836</u>	<u>\$0</u>	<u>356,836</u>	<u>\$191,866</u>	<u>\$548,722</u>	<u>100.00%</u>	7.85%	7.85%
5. LONG-TERM DEBT	\$0	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
6. SHORT-TERM DEBT	0	0	0	0	0	0.00%	0.00%	0.00%
7. PREFERRED STOCK	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	0.00%
TOTAL LONG-TERM DEBT	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>		
8. CUSTOMER DEPOSITS	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	2.00%	<u>0.000%</u>
9. TOTAL	<u>\$356,836</u>	<u>\$0</u>	<u>\$356,836</u>	<u>\$191,866</u>	<u>\$548,722</u>	<u>100.00%</u>	0.00%	<u>7.85%</u>
RANGE OF REASONABLENESS						<u>LOW</u>	<u>HIGH</u>	
RETURN ON EQUITY						<u>6.85%</u>	<u>8.85%</u>	
OVERALL RATE OF RETURN						<u>6.85%</u>	<u>8.85%</u>	

GATOR WATERWORKS, INC.			SCHEDULE NO. 3-A		
TEST YEAR ENDED 3/31/2019			DOCKET NO. 20190114-WU		
SCHEDULE OF WATER OPERATING INCOME					
	TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$56,351</u>	<u>\$430</u>	<u>\$56,781</u>	<u>\$99,265</u> 174.82%	<u>\$156,046</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$76,491	(\$1,833)	\$74,658	\$0	\$74,658
3. DEPRECIATION EXPENSE (NET)	16,307	7,133	23,440	0	23,440
4. AMORTIZATION EXPENSE	(6,788)	747	(6,041)	0	(6,041)
5. TAXES OTHER THAN INCOME	3,955	12,492	16,447	4,467	20,914
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$89,965</u>	<u>\$18,539</u>	<u>\$108,504</u>	<u>\$4,467</u>	<u>\$112,971</u>
8. OPERATING INCOME/(LOSS)	<u>(\$33,614)</u>		<u>(\$51,723)</u>		<u>\$43,075</u>
9. WATER RATE BASE	<u>\$180,667</u>		<u>\$548,722</u>		<u>\$548,722</u>
10. RATE OF RETURN	<u>(18.61%)</u>		<u>(9.43%)</u>		<u>7.85%</u>

GATOR WATERWORKS, INC.		SCHEDULE NO. 3-B
TEST YEAR ENDED 3/31/2019		DOCKET NO. 20190114-WU
ADJUSTMENTS TO OPERATING INCOME		Page 1 of 1
		<u>WATER</u>
OPERATING REVENUES		
1. To reflect test year revenues.		\$422
2. To reflect miscellaneous revenues.		<u>\$8</u>
Subtotal		<u>\$430</u>
OPERATION AND MAINTENANCE EXPENSES		
1. Contractual Services - Other (636)		
To reflect current USWSC contract amount.		<u>\$1,174</u>
2. Insurance Expenses (655)		
To reflect audit adjustment.		<u>\$251</u>
3. Regulatory Commission Expense (665)		
a. To reflect 5-year amortization of transfer filing fee.		\$300
b. To reflect 4-year amortization of rate case expense (\$2,642/4).		<u>661</u>
Subtotal		<u>\$961</u>
4. Bad Debt Expense (670)		
To reflect appropriate bad debt expense.		<u>(\$4,219)</u>
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS		<u>(\$1,833)</u>
DEPRECIATION EXPENSE		
1. To reflect audit adjustment per Rule 25-30.140(2).		\$27
2. To reflect pro forma plant additions (net of retirements).		<u>7,106</u>
Total		<u>\$7,133</u>
AMORTIZATION		
To reflect appropriate CIAC amortization expense.		<u>\$747</u>
TAXES OTHER THAN INCOME		
1. To reflect the appropriate test year RAFs.		(\$150)
2. To reflect the appropriate test year property taxes.		(416)
3. To reflect property associated with pro forma plant.		4,266
4. To reflect pro forma property taxes.		<u>8,792</u>
Total		<u>\$12,492</u>
INCOME TAX		<u>\$0</u>

GATOR WATERWORKS, INC.		SCHEDULE NO. 3-C	
TEST YEAR ENDED 3/31/2019		DOCKET NO. 20190114-WU	
ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE			
	TOTAL PER UTILITY	STAFF ADJUST- MENT	TOTAL PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	\$0	\$0	\$0
(603) SALARIES AND WAGES – OFFICERS	5,000	0	5,000
(604) EMPLOYEE PENSIONS AND BENEFITS	0	0	0
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	12,923	0	12,923
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	669	0	669
(620) MATERIALS AND SUPPLIES	0	0	0
(632) CONTRACTUAL SERVICES - ACCOUNTING	400	0	400
(633) CONTRACTUAL SERVICES – LEGAL	300	0	300
(635) CONTRACTUAL SERVICES - TESTING	157	0	157
(636) CONTRACTUAL SERVICES – OTHER	49,732	1,174	50,906
(640) RENTS	0	0	0
(650) TRANSPORTATION EXPENSE	0	0	0
(655) INSURANCE EXPENSE	1,256	251	1,507
(665) REGULATORY COMMISSION EXPENSE	0	961	961
(670) BAD DEBT EXPENSE	5,404	(4,219)	1,185
(675) MISCELLANEOUS EXPENSE	<u>650</u>	<u>0</u>	<u>650</u>
	<u>\$76,491</u>	<u>(\$1,833)</u>	<u>\$74,658</u>

GATOR WATERWORKS, INC.		SCHEDULE NO. 4		
TEST YEAR ENDED 3/31/2019		DOCKET NO. 20190114-WU		
MONTHLY WATER RATES				
	RATES AT THE TIME OF FILING	COMMISSION APPROVED INTERIM RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential and General Service</u>				
All Meter Sizes	\$6.94	\$9.76		
Base Facility Charge by Meter Size				
5/8" X 3/4"			\$11.36	\$0.06
3/4"			\$17.04	\$0.08
1"			\$28.40	\$0.14
1-1/2"			\$56.80	\$0.28
2"			\$90.88	\$0.45
3"			\$181.76	\$0.89
4"			\$284.00	\$1.39
6"			\$568.00	\$2.78
Charge per 1,000 Gallons - Residential				
0-5,000 gallons			\$7.03	\$0.03
5,001-10,000 gallons			\$8.79	\$0.04
10,000-15,000 gallons			\$10.55	\$0.05
Over 15,000 gallons			\$14.07	\$0.07
Charge per 1,000 gallons - General Service	\$0.92	\$1.29	\$7.27	\$0.04
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>				
5,000 Gallons	\$11.54	\$16.21	\$46.51	
8,000 Gallons	\$14.30	\$20.08	\$72.88	
10,000 Gallons	\$16.14	\$22.66	\$90.46	

Item 12

State of Florida



Public Service Commission

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

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

DATE: February 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Ramos, Hudson) *MR SH EJD JSH*
Office of the General Counsel (Trierweiler) *WZ JSC*

RE: Docket No. 20190189-WS – Application for establishment of wastewater allowance for funds prudently invested (AFPI) charges in Lake County.

AGENDA: 03/03/20 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 06/05/20 (8-month Effective Date)

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2020 FEB 20 AM 8:06
COMMISSION
CLERK

Case Background

Utilities, Inc. of Florida (UIF or utility) is a Class A utility providing water and wastewater services to 27 systems in the following counties: Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole. In its 2018 annual report, the utility reported operating revenues of \$15,633,470 for water and \$19,795,636 for wastewater.

On October 7, 2019, the utility filed an application to revise its existing allowance for funds prudently invested (AFPI) charges for its wastewater system formerly known as Lake Utility Services, Inc. (LUSI), along with tariff sheets reflecting the proposed charges. The utility's existing AFPI charges for the LUSI wastewater system were approved April 4, 2018.¹ The utility is requesting to revise its existing AFPI charges for LUSI's wastewater system based on the

¹Order No. PSC-2018-0174-TRF-SU, issued April 4, 2018, in Docket No. 20170223-SU, *In re: Application for establishment of wastewater allowance for funds prudently invested (AFPI) charges in Highlands, Lake, Marion, Pasco, and Pinellas Counties, by Utilities, Inc. of Florida.*

Commission's remand decision in Order No. PSC-2019-0363-PAA-WS, issued August 27, 2019, which reduced the used and useful (U&U) value of LUSI's wastewater treatment plant (WWTP) from 58.78 to 53.54 percent.² The U&U value was reduced to reflect the removal of prepaid connections from the U&U calculation because capacity devoted to prepaid connections does not qualify under Section 367.081(2)(a)2.b., Florida Statutes (F.S.), as property used and useful in the public service. The utility's proposed AFPI tariffs were suspended by Order No. PSC-2019-0546-PCO-WS, issued December 23, 2019, in the instant docket, pending further investigation.³ Staff sent out its first data request on November 26, 2019 and the utility provided its response on December 5, 2019. On January 30, 2019, the utility filed revised schedules to correct an error in the calculation of net depreciation expense. In addition, the utility filed a schedule detailing the amount of AFPI collected and the number of equivalent residential connections (ERCs) reserved or connected to the system from April 17, 2017 through October 1, 2019.

This recommendation addresses UIF's request to establish revised AFPI charges for its LUSI wastewater system. The Commission has jurisdiction pursuant to Sections 367.081 and 367.091, F.S.

²Order No. PSC-2019-0363-PAA-WS, issued August 27, 2019, in Docket No. 20160101-WS, *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.*

³Order No. PSC-2019-0546-PCO-WS, issued December 23, 2019, in Docket No. 20190189-WS, *In re: Application for establishment of wastewater allowance for funds prudently invested (AFPI) charges in Lake County.*

Discussion of Issues

Issue 1: Should UIF's request to revise its existing AFPI charges for LUSI's wastewater system be approved, and if so, what are the appropriate AFPI charges?

Recommendation: Yes, UIF's request to revise its existing AFPI charges for LUSI's wastewater system should be approved and the appropriate AFPI charges are shown on Table 1-1. The AFPI charges should apply until all 1,658 ERCs included in the calculation have connected to LUSI's wastewater system. After December 31, 2020, the AFPI charge should cease accruing and the utility should be allowed to collect the constant charge of \$1,171.57 until the ERCs included in the calculation of the charge (1,658) have been added, upon which the charges should be discontinued. UIF should provide notice to property owners who have requested service during the 12 months prior to the month this application was filed. The approved charges should be effective for connections made on or after the stamped approval date on the tariff sheets. The utility should provide proof of noticing within 10 days of providing its approved notice. (Ramos, Hudson)

Staff Analysis: Pursuant to Rule 25-30.434, Florida Administrative Code (F.A.C.), an AFPI charge is a mechanism which allows a utility the opportunity to earn a fair rate of return on prudently constructed plant held for future use from the future customers to be served by that plant in the form of a charge paid by those customers. The AFPI charge is calculated for one ERC on a monthly basis up to the time the utility reaches the designed capacity of the plant for which the charge applies. The charges cease when the plant has reached its designed capacity.

UIF's existing AFPI charges for LUSI's wastewater system became effective on March 15, 2018, and were calculated based on a U&U value of 58.78 percent for LUSI's WWTP pursuant to Order No. PSC-2017-0361-FOF-WS.⁴ The utility's existing charges apply to the connection of 1,471 ERCs as of December 31, 2015. Portions of Order No. PSC-2017-0361-FOF-WS were appealed by participating intervenors in the docket and as a result, the Commission ordered adjustments to the U&U calculations to eliminate the prepaid connections. Thus, Order No. PSC-2019-0363-PAA-WS reduced the U&U value of LUSI's WWTP to 53.54 percent.⁵

On October 7, 2019, UIF filed a request to revise its existing AFPI charges for LUSI's wastewater system in order to reflect the reduction in the U&U value of LUSI's WWTP. Since the U&U value of LUSI's WWTP decreased, the non-U&U value of the WWTP or available system capacity for future customers increased. Pursuant to Rule 25-30.434, F.A.C., the calculation of AFPI charges is based in part on the dollar amount of the non U&U plant and accumulated depreciation and the related capacity in terms of ERCs. The utility requested the AFPI charges apply to future connections of 1,658 ERCs, based on the non-U&U capacity of LUSI's WWTP. Staff believes the utility's request to revise its AFPI charges to reflect the reduced U&U percentage is appropriate. Furthermore, the requested charges reflect the costs

⁴Order No. PSC-2018-0174-TRF-SU, issued April 4, 2018, in Docket No. 20170223-SU, *In re: Application for establishment of wastewater allowance for funds prudently invested (AFPI) charges in Highlands, Lake, Marion, Pasco, and Pinellas Counties, by Utilities, Inc. of Florida*

⁵Order No. PSC-2019-0363-PAA-WS, issued August 27, 2019, in Docket No. 20160101-WS, *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.*

associated with one ERC based on 280 gallons per day (gpd) per ERC. If a future customer is expected to place more demand on the system than one ERC, the charge should be multiplied by the number of ERCs of demand which are needed to provide service to the customer.

Pursuant to Rule 25-30.434(4), F.A.C., the beginning date for accruing the AFPI charges should agree with the month following the end of the test year that was used to establish the amount of non-U&U plant. The test year ended December 31, 2015, was used to initially establish the utility's existing AFPI charges and remains unchanged. For this reason, the beginning date of the five-year accrual period should remain January 1, 2016 through December 31, 2020. After December 31, 2020, the utility should be allowed to collect the constant charge of \$1,171.57 until the projected ERCs (1,658) included in the calculation of the charge have been added, upon which the charges should be discontinued.

In response to staff's data request, the utility indicated that it has reserved capacity for 1,542 ERCs since the beginning of the accrual period. Therefore, the utility is eligible to collect AFPI charges for 116 remaining ERCs (1,658 – 1,542). Staff's recommended AFPI charges for UIF's LUSI wastewater system are shown on Table 1-1. The amount of AFPI charges collected from an ERC is based on the month of the connection to the system.

**Table 1-1
 Allowance for Funds Prudently Invested Charges**

	2016	2017	2018	2019	2020
January	\$18.00	\$234.69	\$459.98	\$694.47	\$938.79
February	\$36.00	\$253.40	\$479.45	\$714.75	\$959.95
March	\$53.99	\$272.11	\$498.92	\$735.04	\$981.12
April	\$71.99	\$290.82	\$518.40	\$755.33	\$1,002.28
May	\$89.99	\$309.53	\$537.87	\$775.62	\$1,023.44
June	\$107.99	\$328.24	\$557.34	\$795.90	\$1,044.60
July	\$125.99	\$346.95	\$576.81	\$816.19	\$1,065.76
August	\$143.98	\$365.66	\$596.29	\$836.48	\$1,086.92
September	\$161.98	\$384.37	\$615.76	\$856.77	\$1,108.92
October	\$179.98	\$403.08	\$635.23	\$877.05	\$1,129.25
November	\$197.98	\$421.79	\$654.71	\$897.34	\$1,150.41
December	\$215.98	\$440.50	\$674.18	\$917.63	\$1,171.57

Source: Staff's calculations and revised utility application

Based on the above, UIF's request to revise its existing AFPI charges for LUSI's wastewater system should be approved and the appropriate AFPI charges are shown on Table 1-1. The AFPI charges should apply until all 1,658 ERCs included in the calculation have connected to LUSI's wastewater system. After December 31, 2020, the AFPI charge should cease accruing and the utility should be allowed to collect the constant charge of \$1,171.57 until the ERCs included in the calculation of the charge (1,658) have been added, upon which the charges should be discontinued. UIF should provide notice to property owners who have requested service during the 12 months prior to the month this application was filed. The approved charges should be

effective for connections made on or after the stamped approval date on the tariff sheets. The utility should provide proof of noticing within 10 days of providing its approved notice.

Issue 2: Should this docket be closed?

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

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 sheet and customer notice have been filed by the utility and approved by staff. Once these actions are complete, this docket should be closed administratively.