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 March 1, 2022

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Item 1

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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 17, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Harper, Cowdery, Sunshine) *SMC*
Office of Industry Development and Market Analysis (Wendel) *CH*

RE: Docket No. 20210137-PU – Proposed adoption of Rule 25-18.010, F.A.C., Pole Attachment Complaints.

AGENDA: 03/01/22 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

RULE STATUS: Rule Hearing

SPECIAL INSTRUCTIONS: None

Case Background

By notice appearing in the Florida Administrative Register (F.A.R.) on November 4, 2021, the Commission proposed the adoption of new Rule 25-18.010, Florida Administrative Code (F.A.C.), Pole Attachment Complaints, to implement and administer Section 366.04(8), Florida Statutes (F.S.). The Commission proposed the rule after going through the rule development process that involved the following stakeholders: Florida Internet and Television Association, Inc. (FIT), Comcast Cable Communications, LLC (Comcast), AT&T, CTIA, Crown Castle Fiber LLC (Crown Castle), Duke Energy Florida (DEF), Florida Power & Light Company (FPL), Tampa Electric Company (TECO), and Frontier Communications.

On November 29, 2021, pursuant to Section 120.54(3)(c), F.S., a Joint Request for a Hearing and Separate Proceeding on Proposed Rule 25-18.010, F.A.C. (Petition), was filed with the Commission by FIT, Atlantic Broadband, Miami, LLC (Atlantic), Charter Communications, Inc. (Charter), Comcast, and Cox Communications Gulf Coast, LLC (Cox) (Petitioners). Atlantic,

Charter, Comcast, and Cox are all members of FIT. The Petition asked for a rule hearing to allow the Petitioners the opportunity to address several problems it identified with the proposed rule.

The Petitioners argued that the proposed rule conflicts with Section 366.04(8)(e), F.S., because it fails to recognize that the FCC's decisions, orders, and applicable appellate court decisions govern as the default rules applicable to pole attachment complaints. The Petitioners further argued that the proposed rule failed to articulate any standard or methodology to be followed by the Commission in resolving pole attachment complaints, which they alleged is required for certification to the FCC. Petitioners stated that, because the proposed rule has no methodology or standard governing whether a pole attachment rate is just and reasonable, the proposed rule is vague and lacking in adequate standards, resulting in unbridled discretion in the Commission. The Petitioners' position was that the FCC's rules should be set forth as the default standard, and that failure to include the FCC's decisions, orders, and applicable appellate court decisions is contrary to the public interest and will harm consumers. Petitioners also filed a rule challenge at the Division of Administrative Hearings (DOAH) that is currently stayed.¹

A Section 120.54(3)(c)1., F.S., rule hearing was held at the Commission's regularly scheduled agenda on February 1, 2022, at which staff recommended changes to the proposed Pole Attachment Complaints rule. The recommended changes were the result of discussions by staff with Petitioners and comments received from stakeholders during this rulemaking process. Staff's focus was for the changes to continue to reflect the authority and the direction given by the Legislature to the Commission set forth in Section 366.04(8), F.S. At hearing, the recommended changes were supported by Petitioners, FPL, TECO, and DEF.² AT&T suggested alternative changes to the proposed rule. The Commission did not vote on whether changes should be made to the proposed rule and asked for the matter to be brought back to the Commission for further consideration.

Section 366.04(8), Florida Statutes

The 2021 Florida Legislature amended Section 366.04, Florida Statutes (F.S.), Jurisdiction of Commission, to add a new Section (8), which states:

(8)(a) The commission shall regulate and enforce rates, charges, terms, and conditions of pole attachments, including the types of attachments regulated under 47 U.S.C. s. 224(a)(4), attachments to streetlight fixtures, attachments to poles owned by a public utility, or attachments to poles owned by a communications services provider, to ensure that such rates, charges, terms, and conditions are just and reasonable. The commission's authority under this subsection includes, but is not limited to, the state regulatory authority referenced in 47 U.S.C. s. 224(c).

¹ DOAH granted the stay on the basis that moving forward with the DOAH proceeding while the Commission is considering the request for a public hearing and conducting same would be duplicative and could result in a waste of judicial and other resources.

² Petitioners state in their status report to DOAH that if the changes to proposed Rule 25-18.010, F.A.C., (as shown in Attachment A) are approved by the Commission, they will file a voluntarily dismissal of the DOAH proceeding.

(b) In the development of rules pursuant to paragraph (g), the commission shall consider the interests of the subscribers and users of the services offered through such pole attachments, as well as the interests of the consumers of any pole owner providing such attachments.

(c) It is the intent of the Legislature to encourage parties to enter into voluntary pole attachment agreements, and this subsection may not be construed to prevent parties from voluntarily entering into pole attachment agreements without commission approval.

(d) A party's right to nondiscriminatory access to a pole under this subsection is identical to the rights afforded under 47 U.S.C. s. 224(f)(1). A pole owner may deny access to its poles on a nondiscriminatory basis when there is insufficient capacity, for reasons of safety and reliability, and when required by generally applicable engineering purposes. A pole owner's evaluation of capacity, safety, reliability, and engineering requirements must consider relevant construction and reliability standards approved by the commission.

(e) The commission shall hear and resolve complaints concerning rates, charges, terms, conditions, voluntary agreements, or any denial of access relative to pole attachments. Federal Communications Commission precedent is not binding upon the commission in the exercise of its authority under this subsection. When taking action upon such complaints, the commission shall establish just and reasonable cost-based rates, terms, and conditions for pole attachments and shall apply the decisions and orders of the Federal Communications Commission and any appellate court decisions reviewing an order of the Federal Communications Commission regarding pole attachment rates, terms, or conditions in determining just and reasonable pole attachment rates, terms, and conditions unless a pole owner or attaching entity establishes by competent substantial evidence pursuant to proceedings conducted pursuant to ss. 120.569 and 120.57 that an alternative cost-based pole attachment rate is just and reasonable and in the public interest. (emphasis added)

(f) In the administration and implementation of this subsection, the commission shall authorize any petitioning pole owner or attaching entity to participate as an intervenor with full party rights under chapter 120 in the first four formal administrative proceedings conducted to determine pole attachment rates under this section. These initial four proceedings are intended to provide commission precedent on the establishment of pole attachment rates by the commission and help guide negotiations toward voluntary pole attachment agreements. After the fourth such formal administrative proceeding is concluded by final order, parties to subsequent pole attachment rate proceedings are limited to the specific pole owner and pole attaching entities involved in and directly affected by the specific pole attachment rate.

(g) The commission shall propose procedural rules to administer and implement this subsection. The rules must be proposed for adoption no later than January 1, 2022, and, upon adoption of such rules, shall provide its certification to the Federal Communications Commission pursuant to 47 U.S.C. s. 224(c)(2).

Paragraph 8(e) above provides the basis for the recommended language in Attachment A that would resolve this rule challenge. Pursuant to paragraph (8)(g) above, after the proposed rule is filed with the Department of State and becomes effective, staff intends to bring a recommendation to the next available Commission Conference for Commission approval and issuance of a certification order to be provided to the FCC.

Rule Hearing

This item is being brought back to the Commission as a Section 120.54(3)(c)1., F.S., rule hearing, the purpose of which is for the Commission to decide whether to change the language of the proposed Pole Attachment Complaints rule as shown in Attachment A. The provisions of Section 120.54(3)(c)1., F.S., give affected persons the opportunity to present evidence and argument on all issues under consideration. The Commission in making its determination is required to consider any material pertinent to the issues under consideration submitted to it between the date of publication of the notice of proposed rule and the end of the public hearing.

The Commission has jurisdiction under Sections 120.54, 350.127(2), and 366.04(8), F.S.

Discussion of Issues

Issue 1: Should the Commission make changes to proposed Rule 25-18.010, F.A.C., Pole Attachment Complaints?

Recommendation: Yes. The Commission should change proposed Rule 25-18.010, F.A.C., Pole Attachment Complaints, as shown in Attachment A. (Cowdery, Wendel)

Staff Analysis: The intent of proposed Rule 25-18.010, F.A.C., was to adopt a procedural rule that would identify for complainants and respondents the information they would need to file with the Commission in order for the Commission to process pole attachment complaints pursuant to Section 366.04(8), F.S.

At the February 1, 2022 rule hearing, AT&T made several suggested changes to the proposed rule language. Staff agrees with two of the suggested changes. First, AT&T suggested that the word “requests” should be substituted for the words “involves” and “proposes” in paragraphs (1)(f) and (4)(b). Second, AT&T suggested that the word “decisions” should be added to those paragraphs.³ The recommended changes to the filing requirements in the proposed Pole Attachment Complaints rule are as follows:

(1) A complaint filed with the Commission by a pole owner or attaching entity pursuant to Section 366.04(8), F.S., must contain:

...

~~(f) If the complaint requires the Commission to establish just and reasonable cost-based rates, terms, and conditions for pole attachments, the complaint must contain an explanation of the methodology the complainant is requesting the Commission to apply; If the complaint requests the establishment of rates, charges, terms, or conditions for pole attachments and the complainant proposes the application of rates, terms, or conditions that are based upon Federal Communications Commission (FCC) rules, decisions, orders, or appellate decisions, the complainant must identify the specific applicable FCC rules, decisions, orders, or appellate decisions that the Commission should apply pursuant to Section 366.04(8)(e), F.S.; provided, however, that if the complainant requests an alternative cost-based rate, the complainant must identify the methodology and explain how the alternative cost-based rate is just and reasonable and in the public interest.~~

(4) A response filed under subsection (3) of this rule must include the following:

...

³ At the February 1, 2022 rule hearing, AT&T suggested that the word “decisions” be added after the word “rules” in the first phrase in paragraphs (1)(f) and (4)(b) of the recommended changes that states: “rules, orders, or appellate decisions.” However, AT&T did not ask to have “decisions” added to the second identical phrase in those paragraphs. Staff is recommending that “decisions” be added to both phrases in those paragraphs to correct this oversight.

~~(b) If the complaint requires the Commission to establish just and reasonable cost-based rates, terms, and conditions for pole attachments, the response must contain an explanation of the methodology the respondent is requesting the Commission to apply.~~ If the complaint requests the establishment of rates, charges, terms, or conditions for pole attachments and the respondent proposes the application of rates, terms or conditions that are based upon FCC rules, decisions, orders, or appellate decisions, the respondent must identify the specific applicable FCC rules, decisions, orders, or appellate decisions that the Commission should apply pursuant to Section 366.04(8)(e), F.S.; provided, however, that if the respondent requests an alternative cost-based rate, the respondent must identify the methodology and explain how the alternative cost-based rate is just and reasonable and in the public interest.

The changes to the proposed rule language are consistent with Section 366.04(8)(e), F.S., which requires the Commission in resolving complaints to apply the decisions and orders of the FCC and any appellate court decisions reviewing an order of the FCC regarding pole attachment rates, terms or conditions unless a pole owner or attaching entity establishes by competent substantial evidence “that an alternative cost-based pole attachment rate is just and reasonable and in the public interest.” Staff believes that these changes give more specificity to the filing requirements, while not changing the intent of the procedural rule. Providing more specificity as to filing requirements gives more guidance to parties to assure that the Commission gets the information it needs to fulfill its statutory duty to hear and resolve complaints as set forth in 366.04(8), F.S.

Staff does not recommend making the remaining changes suggested by AT&T at the February 1, 2022 rule hearing because those changes are unnecessary and are not consistent with the enabling legislation, Section 366.04(8)(e), F.S.

Conclusion

For the reasons set forth above, staff recommends that the Commission should change proposed Rule 25-18.010, F.A.C., Pole Attachment Complaints, as shown in Attachment A.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending further rulemaking steps under Section 120.54, F.S. In addition, the docket should remain open until the Commission provides certification to the FCC as required by Section 366.04(8)(g), F.S. (Cowdery)

Staff Analysis: This docket should remain open to take further rulemaking steps under Section 120.54, F.S., in order to file the rule for adoption with the Department of State. The rule will become effective 20 days after it is filed for adoption.

In addition, the docket should remain open until the Commission provides certification to the FCC as required by Section 366.04(8)(g), F.S. After the rule becomes effective, staff intends to bring a recommendation to the next available Commission Conference for the Commission to issue a certification as required by Section 366.04(8)(g), F.S., to be provided to the FCC pursuant to 47 U.S.C. § 224(c)(2) and 47 C.F.R. § 1.1405.

1 25-18.010 Pole Attachment Complaints

2 (1) A complaint filed with the Commission by a pole owner or attaching entity pursuant to
3 Section 366.04(8), F.S., must contain:

4 (a) The name, address, email address, and telephone number of the complainant or
5 complainant's attorney or qualified representative;

6 (b) A statement describing the facts that give rise to the complaint;

7 (c) Names of the party or parties against whom the complaint is filed;

8 (d) A copy of the pole attachment agreement, if applicable, and identification of the pole
9 attachment rates, charges, terms, conditions, voluntary agreements, or any denial of access
10 relative to pole attachments that is the subject matter of the complaint;

11 (e) A statement of the disputed issues of material fact or a statement that there are no
12 disputed issues of material fact;

13 (f) ~~If the complaint requires the Commission to establish just and reasonable cost-based~~
14 ~~rates, terms, and conditions for pole attachments, the complaint must contain an explanation of~~
15 ~~the methodology the complainant is requesting the Commission to apply; If the complaint~~
16 ~~requests the establishment of rates, charges, terms, or conditions for pole attachments and the~~
17 ~~complainant proposes the application of rates, terms, or conditions that are based upon Federal~~
18 ~~Communications Commission (FCC) rules, decisions, orders, or appellate decisions, the~~
19 ~~complainant must identify the specific applicable FCC rules, decisions, orders, or appellate~~
20 ~~decisions that the Commission should apply pursuant to Section 366.04(8)(e), F.S.; provided,~~
21 ~~however, that if the complainant requests an alternative cost-based rate, the complainant must~~
22 ~~identify the methodology and explain how the alternative cost-based rate is just and reasonable~~
23 ~~and in the public interest.~~

24 (g) If the complaint involves a dispute regarding rates or billing, a statement of the dollar
25 amount in dispute, the dollar amount not in dispute, whether the amount not in dispute has
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 | been paid to the pole owner, and if not paid the reasons why not;

2 | (h) A statement of the relief requested, including whether a Section 120.569 and 120.57,
3 | F.S., evidentiary hearing is being requested to resolve the complaint; and

4 | (i) A certificate of service that copies of the complaint have been furnished by email to the
5 | party or parties identified in paragraph (1)(c) of this rule.

6 | (2) The filing date for the complaint is the date that a complaint is filed with the
7 | Commission Clerk containing all required information set forth in subsection (1) of this rule.

8 | (3) The pole owner or attaching entity that is the subject of the complaint may file a
9 | response to the complaint. The response must be filed with the Commission Clerk within 30
10 | calendar days of the date the complaint was served on the respondent, unless the Prehearing
11 | Officer grants a motion for extension of time filed pursuant to Rule 28-106.204, F.A.C., or
12 | Rule 28-106.303, F.A.C., as appropriate.

13 | (4) A response filed under subsection (3) of this rule must include the following:

14 | (a) A statement of whether a Section 120.569 and 120.57, F.S., evidentiary hearing is
15 | being requested to resolve the complaint; and

16 | (b) ~~If the complaint requires the Commission to establish just and reasonable cost-based~~
17 | ~~rates, terms, and conditions for pole attachments, the response must contain an explanation of~~
18 | ~~the methodology the respondent is requesting the Commission to apply. If the complaint~~
19 | requests the establishment of rates, charges, terms, or conditions for pole attachments and the
20 | respondent proposes the application of rates, terms, or conditions that are based upon FCC
21 | rules, decisions, orders, or appellate decisions, the respondent must identify the specific
22 | applicable FCC rules, decisions, orders, or appellate decisions that the Commission should
23 | apply pursuant to Section 366.04(8)(e), F.S.; provided, however, that if the respondent
24 | requests an alternative cost-based rate, the respondent must identify the methodology and
25 | explain how the alternative cost-based rate is just and reasonable and in the public interest.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 (5) The Commission will take final action on a complaint concerning rates, charges, terms,
2 conditions, and voluntary agreements relative to pole attachments at a Commission
3 Conference no later than 360 days after the complaint's filing date as set forth in subsection
4 (2) of this rule.

5 (6) The Commission will take final action on a complaint limited to denial of access
6 relative to pole attachments at a Commission Conference no later than 180 days after the
7 complaint's filing date as established under subsection (2) of this rule.

8 *Rulemaking Authority 350.127(2), 366.04(8)(g) FS. Law Implemented 366.04(8) FS. History-*
9 *New _____*

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Item 2

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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 17, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (DuVal, Harper) *SMC*
Division of Engineering (Buys, King, Maloy, Ramos) *TB*

RE: Docket No. 20210138-PU – Proposed adoption of Rule 25-18.020, F.A.C., Pole Safety, Inspection, Maintenance, and Vegetation Management.

AGENDA: 03/01/22 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

RULE STATUS: Rule Must be Proposed by April 1, 2022

SPECIAL INSTRUCTIONS: None

Case Background

This rulemaking was initiated to implement the 2021 Florida Legislature’s amendments to Section 366.04, Florida Statutes (F.S.), Jurisdiction of Commission, that require the Florida Public Service Commission (Commission) to regulate the safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for communications services providers’¹ poles that have public utility (i.e., investor-owned electric utility) attachments.² Under the new law, the Commission is required to adopt rules that address at least the following: (1) mandatory pole inspections, including repair or replacement; (2) vegetation management requirements for poles owned by providers of communications services; and (3) monetary penalties to be imposed upon any communications services provider

¹ Section 366.02(5), F.S., defines “communications services provider” as an entity providing communications services as defined in Section 202.11(1), F.S.

² Section 366.04(9)(a), F.S.

Docket No. 20210138-PU

Date: February 17, 2022

that fails to comply with any such rule of the Commission. The Commission is required to propose rules to administer and implement Section 366.04(9), F.S., no later than April 1, 2022.

A Notice of Rule Development for this rule appeared in the September 20, 2021 edition of the Florida Administrative Register, Vol. 47, No. 182. A staff rule development workshop was held on October 27, 2021. AT&T and Lumen/ Embarq Florida, Inc., d/b/a CenturyLink participated at the workshop. Frontier Florida LLC and the City of Coconut Creek, Florida filed written comments prior to the workshop. Post-workshop written comments were provided by BellSouth Telecommunications LLC, d/b/a AT&T, Embarq Florida, Inc., d/b/a CenturyLink, Duke Energy Florida, LLC, Florida Power & Light Company, and Tampa Electric Company.

Rules adopted by the Commission to implement Section 366.04(9), F.S., are not subject to Section 120.541, F.S., Statement of Estimated Regulatory Costs (SERC).³ For this reason, a SERC has not been prepared for this rule.

The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2), and 366.04(9), F.S.

³ Section 120.80(13)(g), F.S.

Discussion of Issues

Issue 1: Should the Commission propose the adoption of Rule 25-18.020, F.A.C., Pole Safety, Inspection, Maintenance, and Vegetation Management?

Recommendation: Yes, the Commission should propose the adoption of Rule 25-18.020, F.A.C., Pole Safety, Inspection, Maintenance, and Vegetation Management, as set forth in Attachment A. Also, the Commission should certify that Rule 25-18.020, F.A.C., is not a minor violation rule. (DuVal, Harper, Buys, Maloy)

Staff Analysis: Section 366.04(9)(a), F.S., requires the Commission to regulate the safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for communications services providers' poles. Staff believes that the draft rule set forth in Attachment A implements the Legislature's directions to the Commission to adopt rules to implement Section 366.04(9), F.S. Below is a more detailed explanation of each section of the draft rule.

Application of the Rule

Subsection (1) of draft Rule 25-18.020, F.A.C., identifies the type of communications services providers that must comply with the rule. Specifically, the rule states that it applies to companies that meet the definition of a communications services provider pursuant to Section 366.02(5), F.S., and also own poles as defined in Section 366.02(6), F.S.

The rule goes on to specify that it does not apply to poles used solely to support wireless communications service facilities or to poles that do not have public utilities' electrical overhead facilities attached to them. Staff recommends that this language is necessary to help identify which poles are subject to the Commission's jurisdiction. Moreover, Florida law specifically exempts wireless telecommunications from the Commission's oversight pursuant to Chapter 364, F.S. Therefore, the draft rule language is meant to clarify and reiterate that the Commission does not have the authority to regulate wireless telecommunications providers' poles that do not have public utilities attached to them.

Further, subsection (1) defines "overhead facilities," for purposes of the rule, as fixtures, conductors, wires, cables, and other devices owned by public utilities that are attached to poles owned by a communications services provider.⁴

Safety, Inspection, and Maintenance Standards

Subsection (2) of draft Rule 25-18.020, F.A.C., states that a communications services provider must exercise due care to reduce potential hazards caused by its poles with public utility attachments. There was a consensus among the stakeholders that the Commission's safety rules should reference the National Electric Safety Code (NESC) as the source for any such rules. The

⁴ Based on the definitions set forth in Section 366.02, F.S., any Commission rules regulating communications services providers' poles with public utility attachments appear to apply to at least the following entities: Windstream Florida, LLC/North Florida Telephone Company; Lumen/Embarq Florida, Inc., d/b/a CenturyLink; Frontier Florida LLC; BellSouth Telecommunications LLC, d/b/a AT&T; Northeast Florida Communications (NEFCOM); ITS Telecommunication Systems Inc. dba ITS Fiber/Indiantown Telephone System, Inc.; and Consolidated Communications, Inc./FairPoint/GTC.

NESC is a set of safety standards relevant to the national electric grid and communications systems that is published by the IEEE⁵ and updated every five years. The NESC has been an industry-used resource since 1915 and “sets the ground rules and guidelines for practical safeguarding of utility workers and the public during the installation, operation, and maintenance of electric supply, communication lines and associated equipment.”⁶

The NESC provides strength and clearance requirements that vary depending on the type and location of a pole. The NESC is structured to ensure that regardless of the type or location of the pole, the pole is to maintain a certain percentage of its original constructed strength. Thus, while the NESC standards vary based on a variety of factors such as material, construction practice, and geographical location, their purpose is to ensure pole integrity. As such, the draft rule requires communications services providers to adhere to the NESC for the construction, installation, maintenance, relocation, and inspection of poles that are subject to the Commission’s jurisdiction.

Inspection, Repair, and Replacement of Poles

Section 366.04(9)(b), F.S., requires the Commission to adopt rules that address mandatory pole inspections, including repair or replacement. Subsection (3) of draft Rule 25-18.020, F.A.C., satisfies this requirement and requires communications services providers to conduct inspections of its poles that are subject to the Commission’s jurisdiction at least every eight years. Such inspections must include visual checks and be conducted to ensure adherence to the strength and clearance standards of the NESC.

As discussed above, the NESC requires that poles maintain a certain percentage of their originally constructed strength and that percentage may vary based on the type of pole and its construction. Instead of mandating the performance of specific tests to determine compliance with its strength and clearance standards, the NESC allows companies the flexibility to use any measures needed to meet those standards and their underlying purpose to ensure that a pole maintains a certain percentage of its originally constructed strength. The draft rule specifically states that inspections must include visual checks. Visual checks can easily identify structural issues such as decay, loose guy wires, insect or woodpecker damage, cracked poles, etc. Thus, staff believes inspections should start with visual checks and can be expanded to include other measures (sound and bore inspections, etc.) in order to ensure that poles remain in compliance with the NESC’s requirements. If a communications services provider’s inspection identifies poles that are not in compliance with the NESC, such poles must be repaired or replaced in accordance with the appropriate NESC standards.

Stakeholder Comments

Both CenturyLink and Frontier recommend a 10-year cycle to review a pole inventory in its entirety. Frontier provides that other states, such as Oregon, require inspections to be conducted at least every 10 years and submits that such an inspection cycle is reasonable and should be adopted by the Commission. Frontier further suggests that a recommended inspection rate of 10 percent of poles per year should be included in this subsection of the draft rule. Meanwhile,

⁵ Institute of Electrical and Electronics Engineers.

⁶ See <https://standards.ieee.org/products-services/nesc/> and https://standards.ieee.org/wp-content/uploads/import/documents/other/NESC_overview.pdf.

CenturyLink suggests that the rule language should allow flexibility for different inspection percentages, but supports the establishment of a “maximum interval” between detailed inspections with a “recommended inspection rate” of 10 percent of overhead facilities per year.

Additionally, CenturyLink recommends that an inspection should be defined to include “visual checks or practical tests” of the facilities, to the extent required to identify violations of Commission safety rules that are sourced from the NESC. Similarly, Frontier recommends that the draft rule language should set forth that inspections include, but are not limited to, visual checks or practical tests to the extent required to identify violations of NESC standards. Frontier further suggests that staff include language in the draft rule to reflect that poles violating NESC standards must be remediated to meet those standards; instead of repairing or replacing the poles to meet those standards.

Both AT&T and FPL recommend that pole inspections be conducted at least every eight years. FPL points out that the Commission already requires an 8-year inspection cycle for poles owned by investor-owned electric utilities that is based on those poles’ historical performance against the climate, environment, and conditions (including hurricanes) that are present in the state of Florida. However, in contrast to Frontier’s 10 percent per year recommendation, FPL believes that companies should have the flexibility to determine their own allocation of pole inspections per year, so long as each pole is inspected once per cycle.

FPL further recommends that the rule should specify the minimum level of pole inspection and testing requirements by including a list of required forms of testing and inspection. FPL asserts that visual inspections alone will not suffice and that the rule should also require above ground line sound and bore inspections, excavations with below ground line sound and bore inspections, and strength testing that compares the current pole circumference to the original circumference. FPL further argues that Frontier’s recommendation to require remediation, instead of repair or replacement, of poles found to be in violation of the NESC weakens the proposed rule and leads to ambiguity regarding replacement of poles that could ultimately impair the reliability of electric and communications services.

Staff agrees with AT&T and FPL’s recommendation, along with FPL’s provided rationale, that an 8-year inspection cycle is appropriate. In accordance with CenturyLink and FPL’s recommendations, the draft rule language does not establish annual inspection percentages in order to afford the companies with the flexibility to determine their own inspection percentages based on their individual circumstances and capabilities. Additionally, staff agrees with the stakeholder comments regarding baseline guidance for inspections, but like CenturyLink and Frontier, believes that they must include at least visual checks and only be to the extent required to identify violations of NESC standards. Further, staff agrees with FPL’s comments that it is necessary for the draft rule to address the repair or replacement of poles in order for the Commission to comply with the requirements of Section 366.04(9)(a), F.S.

Vegetation Management of Poles

Pursuant to Section 366.04(9)(b), F.S., the Commission must adopt rules regarding vegetation management requirements for communications services providers’ poles with public utility attachments. Subsection (4) of draft Rule 25-18.020, F.A.C., addresses that statutory obligation and, based on the stakeholders’ comments, requires communications services providers to

perform vegetation management of its Commission-regulated poles pursuant to Part 2 of the NESC. Specifically, Part 2, Section 218, of the NESC states that:

Vegetation management should be performed around supply and communication lines as experience has shown to be necessary. Vegetation that may damage ungrounded supply conductors should be pruned or removed.

The purpose of the NESC's requirements is to ensure that lines are free of vegetation that may interfere with the lines or that may cause a hazard. The NESC does not mandate the performance of specific vegetation management techniques, but instead allows companies the flexibility to use any measures needed to ensure compliance with the NESC's requirements and their underlying purpose to avoid interference with lines and potential hazards.

There was a consensus among the stakeholders that communications services providers should conduct vegetation management of its poles and facilities, but not of the electrical overhead facilities attached to their poles. It is staff's understanding that compliance with the NESC standards will encompass vegetation management of a communications services provider's poles and aerial communications facilities. Vegetation management of a public utility's electrical overhead facilities, however, is to be conducted by the public utility and is not the responsibility of the communications services provider.

There were a number of comments regarding agreements for vegetation management and recommendations that the rule continue to recognize and allow for such agreements. Subsection (4) of the draft rule language requires a communications services provider to "ensure" that vegetation management of its poles meets the NESC standards, regardless of the entity that actually physically conducts the vegetation management. This phrasing also contemplates any contracts or agreements between a communications services provider and a public utility with regard to vegetation management and permits a public utility to continue conducting the vegetation management of a communications services provider's poles if such an agreement exists. Regardless if there is a contract in place or not to outsource its vegetation management, a communications services provider's vegetation management must be in accordance with the appropriate NESC standards.

Emergency Response and Storm Restoration Procedures and Protocols

Subsection (5) of draft Rule 25-18.020, F.A.C., requires communication services providers to submit their emergency response and storm restoration procedures and protocols to the Commission's Division of Engineering; these must include descriptions of how the communications services provider communicates with emergency operations officials, the ways that the public can contact the communications services provider, and the ways the communications services provider coordinates with the public utilities.

If such procedures and protocols are updated, a communications services provider must submit a new version of the procedures and protocols to the Commission within 30 days of the change. Furthermore, every three calendar years after its initial submission, each communications services provider must notify the Commission in writing that it has reviewed its emergency response and storm restoration procedures and protocols. Staff notes that the every 3-year review

requirement would always be calculated from the initial submission date, even if updated procedures and protocols are submitted mid-cycle.

Stakeholder Comments

In its comments, Frontier argues against the draft rule's reporting requirements and recommends the removal of any requirement to submit emergency response or storm restoration procedure and protocols.

Staff recommends that this rule language is necessary because it implements the Commission's statutory obligation set forth in Section 366.04(9)(a), F.S., to regulate communications services providers' emergency response and storm restoration efforts as related to their jurisdictional poles. The information requested by the rule will allow Commission staff to determine whether a communications services provider has emergency response and storm restoration procedures and protocols in place. Additionally, the collection of this information, along with the draft rule's requirements regarding review and submission of updated information, will ensure that a communications services provider's current procedures and protocols are readily available for the Commission and Commission staff's reference.

Reporting Requirements

Subsection (6) of draft Rule 25-18.020, F.A.C., requires communications services providers to submit an annual report to the Commission that contains specified information relevant to the prior calendar year, along with specified information relevant to the upcoming calendar year.

For the prior calendar year, staff recommends that the rule require communications services providers to provide information regarding the inspection, strength testing, repair, replacement, and vegetation management of their poles that are subject to the Commission's jurisdiction. For the upcoming calendar year, staff recommends that the rule require communications services providers to provide the number of poles to be inspected and the total miles of vegetation management to be conducted.

Staff notes that under the rule, communications services providers' first annual reports would be due by June 1, 2023, and then by June 1 of each year thereafter.

Stakeholder Comments

Comments on the draft rule's reporting requirements generally address two areas: (1) the reporting period; and (2) the reporting requirements for vegetation management.

Reporting Period

In its comments, AT&T argues that an annual reporting requirement is more frequent than needed for purposes of tracking progress on pole inspection and maintenance. Instead, AT&T suggests that a reporting cycle based on the duration of the pole inspection cycle would be more appropriate. For instance, reports could be submitted every three or five years if a 10-year pole inspection cycle is approved or they could be submitted every two or three years if an 8-year pole inspection cycle is approved.

In its comments, Frontier argues that annual reporting would be unduly burdensome and would not have any meaningful impact on safety. Accordingly, in the alternative, Frontier recommends

that the Commission should require communications services providers to maintain written records that demonstrate compliance with the Commission's rules and provide a report of their pole inspections during the fifth year of 10-year inspection cycle. Frontier's suggestions are based on the pole inspection requirements that were developed and implemented by the state of Oregon.

In contrast, FPL argues that changing the frequency of the reporting requirement will not provide the Commission with the data necessary to fulfill its statutory obligation to regulate communications services providers' poles and will allow pole safety and reliability to deteriorate without Commission awareness. FPL points out that investor-owned electric utilities must also submit annual reports of their pole inspection programs⁷ and that this method is based upon the Commission's understanding of utility poles' performance when subjected to Florida's unique climate and environment. Moreover, FPL maintains that annual reporting is necessary to ensure that the Commission and its staff have timely, meaningful data in order to take timely action if a communications services provider's pole inspection and maintenance processes are deficient.

FPL specifically argues against Frontier's suggestion that communications services providers should simply maintain written records that demonstrate compliance with the Commission's rules. FPL maintains that this suggestion defeats the legislative intent for the Commission to regulate communications services providers' poles. Moreover, FPL submits that compiling an annual report for submission to the Commission cannot be unduly burdensome if communications services providers have the capacity to maintain written records containing data representing its compliance with Commission rules.

Staff agrees with FPL's rationale that an annual reporting period will assist the Commission in fulfilling its duty required by Section 366.04(9)(a), F.S., and is necessary to verify that the communications services providers are performing inspections and conducting vegetation management on its poles as required.

Reporting Requirements for Vegetation Management

Subparagraphs (6)(a)10. and (6)(b)2. of the draft rule require communications services providers to include information about vegetation management in their annual reports. AT&T recommends the removal of such provisions because communications services providers are precluded from conducting vegetation management in the utilities' space and because such information is not meaningful as to either the safety or reliability of any aerial communications facilities. The company propounds that aerial communication facilities do not create safety issues for personnel because of their low voltage, that vegetation does not create a reliability issue unless it actually breaks a communications facility, and that vegetation management is typically only conducted on an "as needed" basis consistent with the NESC.

As provided above, FPL argues that any recommendation to modify the substance of the annual reports should be rejected because the information requested in the draft rule assists the Commission in understanding the current inspection, maintenance, and conditions of communications services providers' poles with public utility attachments.

⁷ Pursuant to Rule 25-6.030(4), F.A.C., pole inspection program information is included in investor-owned electric utilities' annual status report on their individual Storm Protection Plan programs and projects.

Staff agrees with FPL's reasoning and recommends that the draft rule provisions regarding reporting requirements for vegetation management should remain in the rule. Staff recommends that the reporting requirements are necessary the Commission to fulfill its duty to regulate under Section 366.04(9), F.S., and assists with the Commission's ability to monitor the communication services providers' compliance with the NESC.

Penalties

Section 366.04(9)(b), F.S., requires the Commission to adopt rules establishing monetary penalties to be imposed upon any communications services provider that fails to comply with Commission rules for poles with public utility attachments. Subsection (7) of draft Rule 25-18.020, F.A.C., addresses that statutory requirement by setting forth the penalties a communications services provider will be subject to if the Commission finds that it willfully violates or refuses to comply with the rule.

Local Ordinances and Standards

Subsection (8) of draft Rule 25-18.020, F.A.C., explains that no language in this rule is meant to supersede a communications services provider's responsibility to comply with any local authority's ordinances and standards.

Staff added this provision to the draft rule language based on the written comments provided by the City of Coconut Creek in an effort to eliminate potential confusion about the applicability of local ordinances or standards that may conflict with Rule 25-18.020, F.A.C.

Minor Violation Rules Certification

Pursuant to Section 120.695, F.S., for each rule filed for adoption, the agency head must certify whether any part of the rule is designated as a rule the violation of which would be a minor violation. Staff recommends that Rule 25-18.020, F.A.C., is a rule for which a violation would not be a minor violation because the violation of the rule would result in economic or physical harm to a person or have an adverse effect on the public health, safety, or welfare or create a significant threat of such harm. Therefore, because a violation of Rule 25-18.020, F.A.C., would constitute a major violation, staff recommends that the Commission should certify that the rule is not a minor violation rule. No change to the Commission's current list of minor violation rules published on the Commission's website is necessary.

Conclusion

Based on the foregoing, staff recommends that the Commission propose the adoption of Rule 25-18.020, F.A.C., Pole Safety, Inspection, Maintenance, and Vegetation Management, as set forth in Attachment A. Staff further recommends that the Commission should certify that Rule 25-18.020, F.A.C., is not a minor violation rule.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or Joint Administrative Procedures Committee (JAPC) comments are filed, this rule should be filed with the Department of State, and the docket should be closed. (DuVal, Harper)

Staff Analysis: If no requests for hearing or JAPC comments are filed, the rule should be filed with the Department of State, and the docket should be closed.

- 1 25-18.020 Pole Safety, Inspection, Maintenance, and Vegetation Management.
- 2 (1) This rule applies to all communications services providers as defined in Section
- 3 366.02(5), F.S., that own poles as defined in Section 366.02(6), F.S. This rule does not apply
- 4 to poles used solely to support wireless communications service facilities or poles with no
- 5 public utility electrical overhead facilities attached. For the purposes of this rule, “overhead
- 6 facilities” are defined as fixtures, conductors, wires, cables, and other devices owned by public
- 7 utilities that are attached to poles owned by a communications services provider.
- 8 (2) Safety, Inspection, and Maintenance Standards. Each communications services
- 9 provider must exercise due care to reduce hazards to which its employees, customers, and the
- 10 public may be subjected by reason of its poles. Accordingly, all poles of communications
- 11 services providers subject to the Commission’s jurisdiction under Section 366.04(9), F.S.,
- 12 must be constructed, installed, maintained, relocated, and inspected in accordance with the
- 13 National Electrical Safety Code (NESC) which is incorporated by reference in Rule 25-
- 14 6.0345, F.A.C.
- 15 (3) Inspection, Repair, and Replacement of Poles. Each communications services provider
- 16 must conduct inspections of its poles at least every eight (8) years to ensure adherence to the
- 17 strength and clearance standards of the NESC. Inspections must include visual checks to
- 18 determine compliance with the strength and clearance standards of the NESC. Poles not in
- 19 compliance with NESC standards must be repaired or replaced to meet those standards.
- 20 (4) Vegetation Management of Poles. Each communications services provider must ensure
- 21 that the vegetation management of its poles meets the standards set forth in Part 2 of the
- 22 NESC.
- 23 (5) Emergency Response and Storm Restoration Procedures and Protocols. Within six
- 24 months of the effective date of this Rule, each communications services provider must provide
- 25 a copy of its emergency response and storm restoration procedures and protocols to the

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 Division of Engineering.

2 (a) The procedures and protocols must include the following:

3 1. A description of the communications services provider's procedures and protocols for
4 communicating with federal, state, and local emergency operations officials;

5 2. A description of how the public can contact the communication services provider to
6 report issues with its poles, such as broken poles, downed overhead facilities, or obstructive
7 vegetation; and

8 3. A description of how the communication services provider coordinates with public
9 utilities regarding emergency response or restoration efforts.

10 (b) If the communication services provider makes changes to its emergency response and
11 storm restoration procedures and protocols, the communication services provider must file the
12 updated emergency response and storm restoration procedures and protocols with the Division
13 of Engineering within 30 days of the change.

14 (c) Every three calendar years after the initial submission, each communication services
15 provider must notify the Division of Engineering in writing that it has reviewed its emergency
16 response and storm restoration procedures and protocols.

17 (6) Reporting Requirements. By June 1 of each year, each communications services
18 provider must file with the Commission Clerk an Annual Report.

19 (a) The Annual Report must include the following information for the prior calendar year:

20 1. The number of poles owned in whole or in part by the communications services
21 provider at the beginning and at the end of the calendar year;

22 2. The number of poles that were scheduled for inspection;

23 3. The number of poles actually inspected;

24 4. The number of poles that failed inspection;

25 5. The number of poles strength tested;

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- 1 6. The number of poles that failed strength testing;
2 7. The number of poles repaired and a summary of the repairs;
3 8. The number of poles replaced and reason for replacement; and
4 9. The total miles of vegetation management conducted.
5 (b) The Annual Report must include the following information for the upcoming calendar
6 year:
7 1. The number of poles to be inspected; and
8 2. The total miles for which vegetation management will be conducted.
9 (7) Penalties. A willful violation or refusal to comply with this rule will result in monetary
10 penalties as follows:
11 (a) \$500 for the first violation;
12 (b) \$1,000 for the second violation;
13 (c) \$1,500 for the third violation;
14 (d) \$2,000 for the fourth violation; and
15 (e) \$5,000 for the fifth and any subsequent violation.
16 (8) This rule is not meant to relieve communications services providers from adhering to
17 any local ordinances and standards.
18 Rulemaking Authority 350.127(2), 366.04(9)(b) FS. Law Implemented 366.04(9), 366.095
19 FS. History-New_____.
20
21
22
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Item 3

FILED 2/17/2022
DOCUMENT NO. 01286-2022
FPSC - COMMISSION CLERK

State of Florida



Public Service Commission

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

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

DATE: February 17, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Higgins) *ALM*
Division of Economics (Draper, Coston) *JGH*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20220001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

AGENDA: 03/01/22 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On January 19, 2022, Tampa Electric Company (TECO or Company), filed for a mid-course correction (MCC Petition) of both its 2022 fuel and capacity cost recovery factors. TECO's currently-effective 2022 fuel and capacity cost recovery factors were approved at the November 2, 2021 final hearing.¹

Underlying the approval of TECO's 2022 factors was the Florida Public Service Commission's (Commission) review of the Company's projected 2022 fuel- and capacity-related costs. These costs are recovered through the fuel and capacity cost recovery factors that are set/reset annually in this docket. These cost recovery factors are usually effective for a period of 12 months. However, by Rule 25-6.0424, Florida Administrative Code (F.A.C.), the Commission requires

¹Order No. PSC-2021-0442-FOF-EI, issued November 30, 2021, in Docket No. 20210001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.*

that if an investor-owned electric utility's fuel or capacity cost recovery position is projected to exceed a specified range within the standard 12-month timeframe, then the utility shall promptly notify the Commission.

Mid-Course Corrections

Mid-course corrections are used by the Commission between annual clause hearings whenever costs deviate from revenue by a significant margin. Under Rule 25-6.0424, F.A.C., which is commonly referred to as the "mid-course correction rule," a utility must notify the Commission whenever it expects to experience an under- or over-recovery of certain service costs greater than 10 percent. The notification of a 10 percent cost-to-revenue variance shall include a petition for mid-course correction to the fuel cost recovery or capacity cost recovery factors, or shall include an explanation of why a mid-course correction is not practical. The mid-course correction rule and its codified procedures are further discussed throughout this recommendation.

TECO's Petition for Mid-Course Correction

Through its MCC Petition, TECO is proposing a mid-course correction of its 2022 fuel and capacity charges.² Specifically, the Commission is being asked to approve increases to TECO's fuel and capacity cost recovery factors due to the Company now projecting a period-ending 2022 under-recovery of fuel and capacity costs that exceed the 10 percent thresholds. The proposed increase to TECO's currently-authorized fuel and capacity charges is being driven by 2021 and 2022 fuel costs being greater than originally estimated. This topic is discussed further in Issue 1.

The Company is requesting that the revised fuel and capacity factors and associated tariff become effective beginning with the first billing cycle of April 2022. The effective date is further discussed in both Issues 1 and 2.

The Commission is vested with jurisdiction over the subject matter of this proceeding by the provisions of Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06, F.S.

²Document No. 00350-2022

Discussion of Issues

Issue 1: Should the Commission modify TECO's currently-approved fuel and capacity factors for purposes of addressing currently-projected under-recoveries of 2022 fuel and capacity costs?

Recommendation: Yes. Staff recommends the Commission approve adjustments to TECO's currently-approved fuel cost recovery factors to incorporate the total projected period-ending 2022 under-recovery of fuel costs of \$165,639,603. Staff further recommends the Commission approve adjustments to TECO's capacity cost recovery factors to incorporate the projected period-ending 2022 under-recovery of capacity costs of \$3,037,188. (Higgins)

Staff Analysis: TECO participated in the Commission's most-recent fuel hearing which took place on November 2, 2021. The Fuel Order issued with respect to TECO set forth the Company's fuel and capacity cost recovery factors effective with the first billing cycle of January 2022.³ However, as discussed below, both the currently-authorized fuel and capacity cost recovery factors are now projected to produce period-ending 2022 under-recovery positions of greater than 10 percent.

Mid-Course Correction – Fuel and Purchased Power

TECO filed for a mid-course correction of its fuel charges on January 19, 2022.⁴ The Company's petition satisfies the filing requirements of Rule 25-6.0424(1)(b), F.A.C.

TECO states that it has continuously evaluated its fuel and purchased power cost recovery revenue and expenses since the approval of its currently authorized fuel and capacity cost recovery factors. Based on these updates to its cost and revenue projections, at this point in the accounting cycle, TECO expects a period-ending 2022 under-recovery of fuel costs in excess of the 10 percent threshold set forth in Rule 25-6.0424(1)(a), F.A.C. The Company primarily attributes the need for a mid-course correction to higher natural gas prices than originally assumed. Some factors driving the increase in natural gas prices are: high demand for liquefied natural gas; uncertainty regarding near-term production levels; and increased seasonal (winter) demand.

Preceding the filing of its instant MCC Petition and in accordance with the noticing requirement of Rule 25-6.0424(2), F.A.C., TECO filed a letter on October 8, 2021, informing the Commission that it was projecting an under-recovery position of greater than 10 percent for the 2022 recovery period.⁵ However, in analyzing settlement prices for natural gas, the Company determined that the continuing price volatility warranted deferring a decision as to whether to file for a mid-course correction of its fuel charges, but would update the Commission by December 1, 2021.

On November 19, 2021, TECO filed a petition for mid-course correction of both its 2022 fuel and capacity charges.⁶ Specifically and similar to the instant request, the Commission was being

³Order No. PSC-2021-0442-FOF-EI.

⁴Document No. 00350-2022.

⁵Document No. 11992-2021.

⁶Document No. 12790-2021.

asked to approve increases in fuel and capacity charges beginning with the first billing cycle of February 2022. However, by letter dated January 3, 2022, TECO withdrew this request.⁷ As indicated by the instant MCC filing, TECO determined that a mid-course correction of its 2022 customer fuel and capacity charges would still be necessary. By the instant MCC Petition, the Company is requesting to collect the subject fuel cost under-recovery over an 9-month period, or from April through December 2022.

Mid-Course Correction – Capacity

As previously mentioned, TECO filed for a mid-course correction of its capacity charges along with its fuel mid-course correction. TECO states the projected capacity cost under-recovery is primarily caused by additional economically viable power purchases that include capacity premiums. As proposed, and in similar fashion to the fuel cost recovery proposal, the mid-course correction related to capacity costs will be collected over the same 9-month period as the fuel cost under-recovery, or from April through December 2022.

Period-Ending 2021 Recovery Positions

Fuel

For 2021, TECO initially projected through its actual/estimated filing a fuel cost under-recovery of (\$325,418), which is the amount recognized in the currently-authorized 2022 fuel factors.⁸ Recognized in the derivation of this amount were the dollars (under-recovery) included in TECO's first mid-course correction filing of 2021, which the Commission ultimately approved in the amount of (\$73,680,277).⁹ However, TECO now reports through this MCC Petition an additional (actual) period-ending 2021 under-recovery of (\$72,171,466).¹⁰ This additional 2021 under-recovery is being proposed for collection as part of this mid-course correction.

Capacity

Concerning TECO's capacity costs, the Company initially projected through its 2021 actual/estimated filing an under-recovery of (\$25,180), which is the amount recognized in the currently-authorized 2022 capacity factors.¹¹ Included in the derivation of this amount are the dollars (under-recovery) included in TECO's first mid-course correction filing of 2021, which the Commission ultimately approved in the amount of (\$9,628,629).¹² However, TECO's actual period-ending 2021 capacity position is an under-recovery of (\$39,496).¹³ The actual 2021 capacity under-recovery is being proposed for collection as part of this mid-course correction.

Projected 2022 Recovery Positions

Fuel

TECO's original 2022 fuel cost projection filed for the purposes of cost recovery was on September 3, 2021, as part of its Petition for Approval of Fuel Cost Recovery and Capacity Cost

⁷ Document No. 00027-2022.

⁸ Order No. PSC-2021-0442-FOF-EI.

⁹ Order No. PSC-2021-0329-PCO-EI.

¹⁰ Document No. 00350-2022.

¹¹ Order No. PSC-2021-0442-FOF-EI.

¹² Order No. PSC-2021-0329-PCO-EI.

¹³ Document No. 00350-2022.

Recovery Factors for January 2022 through December 2022.¹⁴ TECO subsequently amended this filing on October 1, 2021 to capture certain associated effects of its then-proposed 2021 base rate settlement.¹⁵ Staff notes the requested level of fuel cost recovery remained the same between the two filings. The Commission ultimately approved the 2021 base rate settlement on October 21, 2021.¹⁶

The underlying market-based natural gas price data used to produce the original 2022 projection was sourced the week-ended July 2, 2021.¹⁷ This projection of future natural gas prices was used to produce an average 2022 natural gas cost (including delivery) of \$4.30 per million British thermal unit (MMBtu).¹⁸ However, as shown in the MCC Petition, TECO now projects its average cost of natural gas in 2022 will be \$4.98 per MMBtu, representing an increase of 15.8 percent.¹⁹ The updated cost projection was based on a five-day average of monthly 2022 natural gas futures ended January 5, 2022.²⁰

For comparative purposes, staff evaluated the March through December 2022 commodity-only, i.e., excluding delivery cost, price projection for natural gas underlying the Company's mid-course correction filing to current market prices.²¹ Staff observes the arithmetic average of TECO's commodity-only natural gas price projection for the 10-month period, or March through December 2022, is \$3.70 per MMBtu.²² As previously indicated, TECO's pricing information was based on a five-day average of monthly 2022 natural gas futures ended January 5, 2022. Using more-current data, or information sourced on February 3, 2022, staff calculates an average natural gas (commodity-only) price of \$4.83 per MMBtu for the same 10-month period. The results of this comparison (at the time performed) indicate that natural gas prices over the subject period have increased since the development of the MCC Petition. However, staff notes that natural gas prices are continuously subject to market (and other) forces and therefore can be volatile.

Table 1-1 below shows the total fuel and net power costs associated with the original and updated projections of 2022, as well as the components of the total mid-course correction true-up amount (estimated 2022 End-of-Period Total Net True-up).

¹⁴Document No. 10086-2021.

¹⁵Document No. 11810-2021.

¹⁶Order No. PSC-2021-0423-S-EI, issued November 10, 2021, in Docket No. 20210034-EI, *In re: Petition for rate increase by Tampa Electric Company*, and Docket No. 20200264-EI, *In re: Petition for approval of 2020 depreciation and dismantlement study and capital recovery schedules, by Tampa Electric Company*.

¹⁷Calendar year 2022 pricing information is based on forward market (New York Mercantile Exchange, or "NYMEX") data using an average of five consecutive trading days. See Document No. 12892-2021, filed November 30, 2021, TECO's Responses to Staff's Second Data Request, No. 2.

¹⁸Document No. 11810-2021.

¹⁹Document No. 00350-2022.

²⁰*Id.*

²¹Staff obtained its natural gas pricing information from the CME Group Inc. CME Group pricing information with respect to natural gas can be located through the following web address: <https://www.cmegroup.com/markets/energy/natural-gas/natural-gas.quotes.html>

²²Document No. 00350-2022.

**Table 1-1
 Fuel Mid-Course Correction**

Category	Original Projection²³ (\$)	Mid-Course Projection (\$)	Difference from Original Projection (%)
Total Fuel and Net Power Transactions for 2022	\$598,798,451	\$691,483,208	15.5%
Actual 2021 True-Up	-	(\$72,171,466)	-
Estimated 2022 True-Up	-	(\$93,300,446)	-
Interest Provision	-	(\$493,109)	-
Estimated 2022 End-of-Period Total Net True-up ²⁴	-	(\$165,639,603)	-

Sources: Document Nos. 11810-2021 and 00350-2022.

Following the methodology prescribed in Rule 25-6.0424(1)(a), F.A.C., the mid-course percentage is equal to the estimated end-of-period total net true-up amount, including interest, divided by the current period's total actual and estimated jurisdictional fuel revenue applicable to period, or (\$165,639,603) / \$598,182,762. This calculation results in a mid-course correction level of (27.7) percent.²⁵

Fuel Factor

TECO's currently-approved annual levelized fuel factor beginning January 2022 is 3.052 cents per kilowatt-hour (kWh).²⁶ The Company is requesting to increase its currently-approved 2022 annual levelized fuel factor to 4.010 cents per kWh, or by 31.4 percent.²⁷

Capacity

Through the MCC Petition, the Company is proposing to increase its 2022 capacity cost recovery factors to incorporate an estimated period-ending 2022 under-recovery of (\$3,037,188).

TECO's original 2022 capacity cost projection filed for the purposes of cost recovery was on September 3, 2021, as part of its Petition for Approval of Fuel Cost Recovery and Capacity Cost Recovery Factors for January 2022 through December 2022.²⁸ TECO subsequently amended this filing on October 1, 2021 to capture certain associated effects of its then-proposed 2021 base rate case settlement agreement.²⁹ In the filing for 2022 rates, TECO projected its 2022 capacity cost to be \$5,184,806. However, TECO now expects its 2022 capacity cost to be \$8,178,725, for a difference of \$2,993,919. This change, coupled with the actual 2021 under-recovery discussed

²³Order No. PSC-2021-0442-FOF-EI.

²⁴Figure includes the 2021 true-up of (\$325,418) as specified in Order No. PSC-2021-0442-FOF-EI.

²⁵Document No. 00350-2022.

²⁶Order No. PSC-2021-0442-FOF-EI.

²⁷Document No. 00350-2022. Recovery factor shown on "Exhibit C," page 4 of 43, Schedule E1, line 35.

²⁸Document No. 10086-2021.

²⁹Document No. 11810-2021.

above, as well as a Solar Base Rate Adjustment (SoBRA) refund and interest, results in a projected period-ending 2022 under-recovery of (\$3,037,188). Staff notes the SoBRA-related refund of \$85,648 was recognized by the Commission as part of the total recoverable 2022 capacity cost amount identified in Order No. PSC-2021-0442-FOF-EI (Issue 31). TECO is proposing to increase its 2022 capacity cost recovery factors to incorporate the projected (\$3,037,188) under-recovery.

The Company's year-end 2022 capacity mid-course correction position following the calculation methodology in Rule 25-6.0424(1)(a), F.A.C., is (59.8) percent, or (\$3,037,188) / 5,079,473.³⁰

Bill Impacts

Table 1-2 below shows the bill impact on a typical residential customer using 1,000 kWh of electricity a month associated with new fuel and capacity cost recovery factors. In the discussion below Table 1-2, staff addresses the impacts of the fuel MCC on non-residential customers:

**Table 1-2
 Monthly Residential Billing Detail for the First 1,000 kWh**

Invoice Component	Currently-Approved Charges Beginning January 2022 (\$)	Proposed New Charges April Through December 2022 (\$)	Approved to Proposed Difference (\$)	Approved to Proposed Difference (%)
Base Charge	\$78.69	\$78.69	\$0.00	-
Fuel Charge	27.45	37.91	10.46	38.1%
Conservation Charge	2.36	2.36	0.00	-
Capacity Charge	0.31	0.53	0.22	71.0%
Environmental Charge	1.38	1.38	0.00	-
Storm Protection Plan Charge	3.29	3.29	0.00	-
Clean Energy Transition Mechanism	4.41	4.41	0.00	-
Gross Receipts Tax	<u>3.02</u>	<u>3.30</u>	0.28	9.3%
Total	<u>\$120.91</u>	<u>\$131.87</u>	<u>\$10.96</u>	9.1%

Source: TECO MCC Petition, Schedule E-10.

TECO's current total residential charge for the first 1,000 kWh of usage beginning January 2022 is \$120.91. If TECO's mid-course correction proposal is approved, the current total residential charge for the first 1,000 kWh of usage, beginning April 2022, will be \$131.87. This represents an increase of 9.1 percent. For non-residential customers, TECO reported that based on average levels of usage and specific rate schedules, bill increases for small commercial customers would be approximately 8.2 percent, bill increases for medium-size commercial customers would be

³⁰Document No. 00350-2022.

approximately 9.5 percent, and approximately 14.0 to 18.5 percent for large commercial and industrial customers.³¹ TECO's proposed tariff is shown on Appendix A to this recommendation.

Summary

Staff recommends TECO's fuel cost recovery factors be adjusted to incorporate its projected 2022 end-of-year fuel cost under-recovery. Staff also recommends TECO's capacity cost recovery factors be adjusted to incorporate its projected 2022 end-of-year capacity cost under-recovery. The revised fuel and capacity factors associated with staff's recommendations are shown on Appendix A.

Conclusion

Staff recommends the Commission approve adjustments to TECO's currently-approved fuel cost recovery factors to incorporate the total projected period-ending 2022 under-recovery of fuel costs of \$165,639,603. Staff further recommends the Commission approve adjustments to TECO's capacity cost recovery factors to incorporate the projected period-ending 2022 under-recovery of capacity costs of \$3,037,188.

³¹Document No. 00818-2022, filed January 28, 2022, TECO's Responses to Staff's Third Data Request, No. 4.

Issue 2: If approved by the Commission, what is the appropriate effective date for TECO's revised fuel and capacity cost recovery factors?

Recommendation: Staff recommends that the fuel cost recovery and capacity cost recovery factors as shown on Appendix A become effective with the first billing cycle of April 2022. (Coston, Brownless)

Staff Analysis: In its petition, TECO has requested that the revised fuel and capacity cost recovery factors become effective with the first billing cycle of April 2022.

Over the last 20 years in the Fuel Clause docket, the Commission has considered the effective date of rates and charges of revised fuel cost recovery factors on a case-by-case basis. The Commission has approved fuel cost recovery factor rate decreases effective sooner than the next full billing cycle after the date of the Commission's vote with the range between the vote and the effective date being from 25 to 2 days. The rationale for that action being that it was in the customers' best interests to implement the lower rate as soon as possible.³² With regard to fuel cost recovery factor rate increases, the Commission has approved an effective date of the revised factors ranging from 14 to 29 days after the vote.³³ In five of these cases, the Commission noted that the utility had given its customers 30 days' written notice before the date of the vote that a

³²Order No. PSC-08-0825-PCO-EI, issued December 22, 2008, in Docket No. 080001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-09-0254-PCO-EI, issued April 27, 2009, in Docket No. 090001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-11-0581-PCO-EI, issued on December 19, 2011, in Docket No. 110001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-12-0342-PCO-EI, issued July 2, 2012, in Docket No. 120001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-2012-0082-PCO-EI, issued February 24, 2012, in Docket No. 120001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-15-0161-PCO-EI, issued April 30, 2015, in Docket No. 150001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-2018-0313-PCO-EI, issued June 18, 2018, in Docket No. 20180001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order PSC-2020-0154-PCO-EI, issued May 14, 2020, in Docket No. 20200001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

³³Order No. PSC-03-0381-PCO-EI, issued March 19, 2003, in Docket No. 030001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-03-0382-PCO-EI, issued March 19, 2003, in Docket No. 030001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-03-0400, issued March 24, 2003, in Docket No. 030001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-03-0849-PCO-EI, issued July 22, 2003, in Docket No. 030001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-09-0213-PCO-EI, issued April 9, 2009, in Docket No. 090001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-2019-0109-PCO-EI, issued March 22, 2019, in Docket No. 20190001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*. Order No. PSC-2021-0328-PCO-EI, issued August 30, 2021, in Docket No. 20210001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-2021-0329-PCO-EI, issued August 30, 2021, in Docket No. 20210001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*; Order No. PSC-2021-0460-PCO-EI, issued December 15, 2021, in Docket No. 20210001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

fuel cost recovery factor increase had been requested and provided the proposed effective date of the higher fuel factors.³⁴

In its MCC Petition, TECO proposes to collect the current under-recoveries of fuel and capacity costs over 9 consecutive months, beginning with the first billing cycle of April 2022, and ending with the last billing cycle of December 2022. In the instant case, there are 30 days between the Commission's vote on March 1st and the beginning of TECO's April billing cycle (April 1st).³⁵

Concerning customer advisement of the instant request, TECO states that the proposed rate-change notifications are planned for customer bills beginning with March 2022 invoices. Additionally, on January 19, 2022, which is the same day TECO submitted its instant MCC Petition, the Company posted a "news release" to its website describing the proposal and provided telephone and email correspondence to 60 large customers informing them of the proposed mid-course changes.³⁶

Conclusion

Staff recommends that the fuel cost recovery and capacity cost recovery factors as shown on Appendix A become effective with the first billing cycle of April 2022.

³⁴Order No. PSC-09-0213-PCO-EI; Order No. PSC-2019-0109-PCO-EI.

³⁵Document No. 00818-2022, filed January 28, 2022, TECO's Responses to Staff's Third Data Request, No. 2.

³⁶Document No. 00818-2022, filed January 28, 2022, TECO's Responses to Staff's Third Data Request, No. 8.

Issue 3: Should this docket be closed?

Recommendation: No. The 20220001-EI docket is an on-going proceeding and should remain open. (Brownless)

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



EIGHTY-~~THIRD~~-FOURTH REVISED SHEET NO. 6.020
 CANCELS EIGHTY-~~SECOND~~-THIRD REVISED SHEET NO. 6.020

ADDITIONAL BILLING CHARGES

TOTAL FUEL AND PURCHASED POWER COST RECOVERY CLAUSE: The total fuel and purchased power cost recovery factor shall be applied to each kilowatt-hour delivered, and shall be computed in accordance with the formula prescribed by the Florida Public Service Commission. The following fuel recovery factors by rate schedule have been approved by the Commission:

RECOVERY PERIOD
 (~~April~~ ~~January~~ 2022 through December 2022)

Rate Schedules	¢/kWh Fuel			¢/kWh Capacity	¢/kWh Environmental
	Standard	Peak	Off-Peak		
RS (up to 1,000 kWh)	3.7912-746			0.05334	0.138
RS (over 1,000 kWh)	4.7912-746			0.05334	0.138
RSVP-1 (P ₁)	4.1263-057			0.05334	0.138
(P ₂)	4.1263-057			0.05334	0.138
(P ₃)	4.1263-057			0.05334	0.138
(P ₄)	4.1263-057			0.05334	0.138
GS, GST	4.1263-057	4.4803-348	3.9742-944	0.04827	0.135
CS	4.1263-057			0.04827	0.135
LS-1, LS-2	4.0602-008			0.0074	0.113
GSD Optional					
Secondary	4.1263-057			0.03922	0.130
Primary	4.0853-026			0.03922	0.129
Subtransmission	4.0432-996			0.03822	0.128
Rate Schedules	¢/kWh Fuel			\$/kW Capacity	¢/kWh Environmental
	Standard	Peak	Off-Peak		
GSD, GSDT, SBD, SBDT					
Secondary	4.1263-057	4.4802-348	3.9742-944	0.1709	0.130
Primary	4.0853-026	4.4353-285	3.9342-915	0.1709	0.129
Subtransmission	4.0432-996	4.3902-262	3.8952-885	0.1709	0.128
GSLDPR, GSLDTPR	4.0853-026	4.4353-285	3.9342-915	0.1508	0.123
SBLDPR, SBLDTPR	4.0853-026	4.4353-285	3.9342-915	0.1508	0.123
GSLDSU, GSLDTSU	4.0432-996	4.3902-262	3.8952-885	0.1307	0.120
SBLDSU, SBLDTSU	4.0432-996	4.3902-262	3.8952-885	0.1307	0.120

Continued to Sheet No. 6.021

ISSUED BY: A. D. Collins, President

DATE EFFECTIVE:

Item 4

FILED 2/17/2022
DOCUMENT NO. 01288-2022
FPSC - COMMISSION CLERK

State of Florida



Public Service Commission

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

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

DATE: February 17, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Mathis, Buys, Cicchetti) *ALM*
Office of the General Counsel (Sandy) *JSC*

RE: Docket No. 20210153-EI – Application for authority to issue and sell securities for 12 months ending December 31, 2022, by Tampa Electric Company.

AGENDA: 03/01/22 – Regular Agenda – Final Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On September 3, 2021, Tampa Electric Company (TECO or Company) filed an Application with the Commission for Authority to Issue and Sell Securities (Initial Application). TECO's Initial Application requested authority for up to \$800 million in outstanding short-term debt. On November 5, 2021, the Commission issued Order No. PSC-2021-0414-FOF-EI, approving TECO's Initial Application.¹ On December 15, 2021, TECO filed a petition requesting that the Commission amend Order No. PSC-2021-0414-FOF-EI by increasing the limit on short-term debt for 2022 from \$800 million to \$1 billion. The Commission has jurisdiction over this matter pursuant to Chapter 366, Florida Statutes (F.S.), including Section 366.04, F.S.

¹Order No. PSC-2021-0414-FOF-EI, issued November 05, 2021, in Docket No. 20210153-EI, *In re: Application for authority to issue and sell securities for 12 months ending December 31, 2022, by Tampa Electric Company.*

Discussion of Issues

Issue 1: Should the Commission approve TECO's petition to amend the authority granted in Order No. PSC-2021-0414-FOF-EI by increasing TECO's limit on short-term debt for 2022 from \$800 million to \$1 billion?

Recommendation: Yes. TECO's petition to amend the authority granted in Order No. PSC-2021-0414-FOF-EI by increasing TECO's limit on short-term debt for 2022 from \$800 million to \$1 billion should be approved. (Mathis)

Staff Analysis: On September 3, 2021, TECO filed its Initial Application for authority to issue and sell securities for the fiscal period of 12 months ending December 31, 2022, pursuant to Section 366.04, F.S., and Chapter 25-8, Florida Administrative Code (F.A.C.). The Commission approved the Initial Application for authority to issue \$800 million in short-term debt in 2022 by Order No. PSC-2021-0414-FOF-EI, issued November 5, 2021.²

Beginning in March of 2020, the COVID-19 pandemic caused a tightening of credit markets, which in turn increased borrowing rates for various products including term loans. As a result, the Company did not pursue any additional term loans by the time it filed its Initial Application. In the fourth quarter of 2021, short-term loan rates returned to favorable levels and once again became an attractive source of liquidity for the Company. In order to take advantage of the favorable rates, TECO entered into a new term loan agreement with a group of banks on December 17, 2021. TECO had not considered entering into a new term loan prior to the updated pricing, and as a result the Company did not factor the amount of a new term loan into its Initial Application. The instant petition rectifies this issue by factoring in the amount of the new term loan and requesting that the short-term debt limit for 2022 be increased from \$800 million to \$1 billion. The increase in short-term debt provides TECO with flexibility to better manage its short-term borrowing costs in 2022. The newly requested amount for the short-term debt limit in 2022 is consistent with the amount for the short-term debt limit in 2021 granted to TECO by Order No. PSC-2020-0468-FOF-EI.³

The requested amendment to Order No. PSC-2021-0414-FOF-EI applies only to the limit on short-term debt outstanding for 2022. TECO does not seek modification or amendment of any of the other terms set out in Order No. PSC-2021-0414-FOF-EI.

Based on its review, staff believes TECO's request to increase its short-term debt limit from \$800 million to \$1 billion is appropriate and recommends it be approved.

²Id.

³Order No. PSC-2020-0468-FOF-EI, issued November 23, 2020, in Docket No.20200208-EI, *In re: Application for authority to issue and sell securities for 12 months ending December 31, 2021, by Tampa Electric Company.*

Issue 2: Should this docket be closed?

Recommendation: For monitoring purposes, this docket should remain open until May 5, 2023, to allow the Company time to file the required Consummation Report. (Sandy)

Staff Analysis: For monitoring purposes, this docket should remain open until May 5, 2023, to allow the Company time to file the required Consummation Report.

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 17, 2022
TO: Docket No. 20210093-WS
FROM: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk
RE: Rescheduled Commission Conference Agenda Item

Staff's memorandum assigned DN 00380-2022 was filed on January 20, 2022, for the February 1, 2022 Commission Conference. As the vote sheet reflects, this item was deferred. This item has been placed on the March 1, 2022 Commission Conference Agenda.

/ajt

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Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: January 20, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (M. Watts, Ramos) *TB*
Division of Accounting and Finance (Blocker, Fletcher) *ALM*
Division of Economics (Bruce) *JGH*
Office of the General Counsel (J. Crawford) *JSC*

RE: Docket No. 20210093-WS – Application for transfer of water and wastewater systems of Aquarina Utilities, Inc., water Certificate No. 517-W, and wastewater Certificate No. 450-S to CSWR-Florida Utility Operating Company, LLC, in Brevard County.

AGENDA: 02/01/22 – Regular Agenda – Proposed Agency Action for Issues 2 and 3 - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Please place item on Agenda immediately before Docket No. 20210095-WU.

Case Background

Aquarina Utilities, Inc. (AUI, Utility, or Seller) is a Class B water and wastewater utility providing water and wastewater services in Brevard County to 320 potable water, 119 non-potable water, and 342 wastewater customers. The service territory is located in the St. Johns River Water Management District (SJRWMD) and is in a Water Resource Caution Area. In its 2020 Annual Report, AUI reported operating revenues of \$216,791 for potable water, \$203,867 for non-potable water, and \$234,542 for wastewater service. The Utility's rates and charges were

Docket No. 20210093-WS

Date: January 20, 2022

last approved in a 2020 limited alternative rate case.¹ The Utility's last staff assisted rate case was in 2019.²

The Utility has been providing service to customers in Brevard County since 1984. In 1989, the Commission granted the Utility original Certificate Nos. 517-W and 450-S.³ Since its certification, the Utility has experienced two territory amendments, a corporate reorganization, a name change, two transfers of majority organizational control, and a transfer.⁴

On May 3, 2021, CSWR-Florida Utility Operating Company, LLC (CSWR-Aquarina or Buyer) filed an application with the Commission for the transfer of Certificate Nos. 517-W and 450-S from AUI to CSWR-Aquarina in Brevard County. The sale will close after the Commission has voted to approve the transfer. In its application, the Buyer has requested a positive acquisition adjustment, which is discussed in Issue 3.

Intervention by the Office of Public Counsel (OPC) was acknowledged on August 24, 2021. OPC and staff have issued a number of discover or data requests to CSWR-Aquarina in this docket.

This recommendation addresses the transfer of the water and wastewater systems and Certificate Nos. 517-W and 450-S, the appropriate net book value of the water and wastewater systems for transfer purposes, and the request for an acquisition adjustment. The Commission has jurisdiction pursuant to Sections 367.071 and 367.081, Florida Statutes (F.S.).

¹ Order No. PSC-2020-0158-PAA-WS, issued May 15, 2020, in Docket No. 20190080-WS, *In re: Application for limited proceeding rate increase in Brevard County, by Aquarina Utilities, Inc.*

² Order No. PSC-2019-0139-PAA-WS, issued April 22, 2019, in Docket No. 20150010-WS, *In re: Application for staff-assisted rate case in Brevard County by Aquarina Utilities, Inc.*, Order approving Phase II rates for potable water and wastewater.

³ Order No. 22075, issued October 19, 1989, in Docket No. 19880595-WS, *In re: Objections to application by Service Management Systems, Inc. for water and sewer certificates in Brevard County.*

⁴ Order No. 23059, issued June 11, 1990, in Docket No. 19900167-WS, *In re: Application for amendment of Certificates Nos. 517-W and 450-S in Brevard County by Aquarina Developments, Inc.*; Order No. PSC-92-0119-FOF-WS, issued March 30, 1992, in Docket No. 19911129-WS, *In re: Application for amendment of Certificates Nos. 517-W and 450-S in Brevard County by Aquarina Developments, Inc.*; Order No. PSC-97-0206-FOF-WS, issued February 21, 1997, and Order No. PSC-97-0206A-FOF-WS, issued March 5, 1997, in Docket No. 19960095-WS, *In re: Application for name change on Certificates Nos. 517-W and 450-S in Brevard County from Aquarina Developments, Inc. to Service Management Systems, Inc.*; Order No. PSC-97-0918-FOF-WS, issued August 4, 1997, in Docket No. 19970093-WS, *In re: Application for approval of transfer of majority organizational control of Certificates Nos. 517-W and 450-S in Brevard County from Service Management Systems, Inc. to Petrus Group, L.P.*; Order No. PSC-03-0787-FOF-WS, issued July 2, 2003, and Order No. PSC-03-1098-FOF-WS, issued October 2, 2003, in Docket No. 20020091-WS, *In re: Application for transfer of majority organizational control of Service Management Systems, Inc., holder of Certificates Nos. 517-W and 450-S in Brevard County, from Petrus Group, L.P. to IRD Osprey, LLC d/b/a Aquarina Utilities*; Order No. PSC-12-0577-PAA-WS, issued October 25, 2012, in Docket No. 20110061-WS, *In re: Application for authority to transfer assets and Certificate Nos. 517-W and 450-S of Service Management Systems, Inc. to Aquarina Utilities, Inc., in Brevard County.*

Discussion of Issues

Issue 1: Should the transfer of Certificate Nos. 517-W and 450-S in Brevard County from Aquarina Utilities, Inc. to CSWR-Florida Utility Operating Company, LLC be approved?

Recommendation: Yes. The transfer of the water and wastewater systems and Certificate Nos. 517-W and 450-S is in the public interest and should be approved effective the date that the sale becomes final. The resultant Order should serve as the Buyer's certificate and should be retained by the Buyer. The Buyer should submit the executed and recorded deed for continued access to the land upon which its facilities are located and copies of its permit transfer applications to the Commission within 60 days of the Order approving the transfer, which is final agency action. If the sale is not finalized within 60 days of the transfer Order, the Buyer should file a status update in the docket file. The Utility's existing rates and charges, including the modification to miscellaneous service charges pursuant to Rule 25-30.460, Florida Administrative Code (F.A.C.), should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. The Seller is current with respect to annual reports and regulatory assessment fees (RAFs) through December 31, 2020. The Seller should be responsible for filing annual reports and paying RAFs for 2021, and the Buyer should be responsible for filing the annual reports and paying RAFs for all future years. (M. Watts, Blocker, Bruce)

Staff Analysis: On May 3, 2021, CSWR-Aquarina filed an application for the transfer of Certificate Nos. 517-W and 450-S from AUI to CSWR-Aquarina in Brevard County. The application is in compliance with Section 367.071, F.S., and Commission rules concerning applications for transfer of certificates. The sale to CSWR-Aquarina will become final after Commission approval of the transfer, pursuant to Section 367.071(1), F.S.

Noticing, Territory, and Land Ownership

CSWR-Aquarina provided notice of the application pursuant to Section 367.071, F.S., and Rule 25-30.030, F.A.C. No objections to the transfer were filed, and the time for doing so has expired. The application contains a description of the service territory which is appended to this recommendation as Attachment A. In its response to staff's August 16, 2021 deficiency letter, CSWR-Aquarina provided a copy of an unrecorded warranty deed as evidence that the Buyer will have rights to long-term use of the land upon which the treatment facilities are located pursuant to Rule 25-30.037(2)(s), F.A.C. CSWR-Aquarina should submit the executed and recorded deed to the Commission within 60 days of the Order.

Purchase Agreement and Financing

Pursuant to Rule 25-30.037(2)(g), (h), and (i), F.A.C., the application contains a statement regarding financing and a copy of the purchase and sale agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. There are no guaranteed revenue contracts, customer advances, or debt of AUI that must be disposed of with regard to the transfer. CSWR-Aquarina will review all leases and developer agreements and will assume or renegotiate those agreements on a case-by-case basis prior to closing. Any customer deposits will be refunded to customers by the Seller prior to the closing. According to the purchase and sale

agreement, the total purchase price for the assets is \$2,500,000. The Seller has allocated \$825,000, \$775,000, and \$900,000 of the purchase price to potable water, non-potable water, and wastewater systems, respectively. According to the Buyer, the closing has not yet taken place and is dependent on Commission approval of the transfer, pursuant to Section 367.071(1), F.S.

Facility Description and Compliance

The AUI water system consists of three potable wells and is permitted by the SJRWMD to withdraw 0.43 million gallons per day (MGD) on an annual average basis. However, only two wells are currently connected to the water system and in production. The two production wells have a combined capacity of 2.0 MGD. Both wells pump water into the non-potable storage tank. Water for the potable system is pumped from the non-potable storage tank into a reverse-osmosis (RO) system for purification. The water is then chlorinated, pumped into a potable ground storage tank, and ultimately drawn into a hydro-pneumatic tank for distribution to the potable water system. Water for the non-potable irrigation system is distributed directly from the non-potable storage tank via two pumps that service the fire protection and common area irrigation systems.

The wastewater treatment plant is permitted to treat .099 MGD on an annual average daily flow. The wastewater treatment plant is authorized to accept and treat RO reject water from the existing Aquarina RO water treatment plant. Flows, including RO reject water, are limited to .099 MGD, the permitted capacity of the existing disposal system. CSWR-Aquarina provided copies of the Utility's current permits from the Florida Department of Environmental Protection (DEP) and SJRWMD pursuant to Rule 25-30.037(2)(r)1, F.A.C. The Buyer should provide copies of its permit transfer applications, reflecting the change in ownership, to the Commission, within 60 days of the Order.

Staff reviewed the most recent sanitary survey and water quality tests submitted to the DEP, and the water treatment system appears to be in compliance with all applicable standards set by the DEP. Staff also reviewed the DEP compliance evaluation inspections (CEI) for the wastewater treatment plant. The DEP's November 1, 2019, CEI characterized all elements of the inspection as "in-compliance." In Exhibit G of the Buyer's application, CSWR-Aquarina provides its assessment of AUI's water and wastewater treatment plants, and lists several improvements and repairs it recommends be made to the systems. The Buyer's suggested repairs and improvements, which do not appear to be required by a governmental authority, are discussed further in Issue 3.

Technical and Financial Ability

Pursuant to Rule 25-30.037(2)(l) and (m), F.A.C., the application contains statements describing the technical and financial ability of the Buyer to provide service to the proposed service area. As referenced in the transfer application, the Buyer will fulfill the commitments, obligations, and representation of the Seller with regards to utility matters. CSWR-Aquarina's application states that it owns and operates more than 257 water/wastewater systems in Missouri, Arkansas, Kentucky, Louisiana, Texas, and Tennessee that currently serve more than 48,860 water and 77,595 wastewater customers. The Buyer plans to use qualified and licensed contractors to provide routine operation and maintenance of the systems, as well as to handle billing and customer service. Staff reviewed the financial statements of CSWR-Aquarina and believes the Buyer has documented adequate resources to support the Utility's water and wastewater

operations.⁵ Based on its review, staff recommends that the Buyer has demonstrated the technical and financial ability to provide service to the existing service territory.

Rates and Charges

The Utility's rates and charges were last approved in a 2020 limited alternative rate case.⁶ The Commission approved the Utility's late payment charge in 2014.⁷ The miscellaneous service charges and service availability charges were amended in 2016.⁸ Since the Utility's last rate case, the rates have been changed by two price index rate increases for water and one price index rate increase for wastewater. The Utility had a rate decrease to remove an expired rate case expense amortization. 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 service availability charges as shown on Schedule No. 1-A, remain in effect, until a change is authorized by the Commission in a subsequent proceeding.

With respect to miscellaneous service charges, effective June 24, 2021, Rule 25-30.460, F.A.C., was amended to remove initial connection and normal reconnection charges.⁹ The definitions for initial connection charges and normal reconnection charges were subsumed in the definition of the premises visit charge. It was envisioned that utility tariffs would be reviewed by staff on a prospective basis to ensure conformance with the amended rule.

The Utility's current tariff contains an initial connection charge (\$26), a normal reconnection charge (\$38), and a premises visit charge (\$26). The normal reconnection charge is more than the premises visit charge. Since the premises visit now entails a broader range of tasks, staff believes the premises visit charge should be revised to reflect the amount of the normal reconnection charge of \$38. Therefore, staff recommends that the initial connection and normal reconnection charges be removed, the premises visit charge be revised to \$38, and the definition for the premises visit charge be updated. The appropriate miscellaneous service charges are shown on Schedule No. 1-B.

Regulatory Assessment Fees and Annual Report

Staff has verified that the Utility is current on the filing of annual reports and RAFs through December 31, 2020. The Seller will be responsible for filing the Utility's annual report and paying RAFs for 2021, and the Buyer will be responsible for filing the Utility's annual reports and paying RAFs for all future years.

Conclusion

⁵ Document No. 03889-2021 (Confidential), filed May 4, 2021.

⁶ Order No. PSC-2020-0158-PAA-WS, issued May 15, 2020, in Docket No. 20190080-WS, *In re: Application for limited proceeding rate increase in Brevard County, by Aquarina Utilities, Inc.*

⁷ Order No. 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.*

⁸ Order No. PSC-16-0583-PAA-WS, issued December 29, 2016, in Docket No. 20150010-WS, *In re: Application for staff-assisted rate case in Brevard County by Aquarina Utilities, Inc.*

⁹ Order No. PSC-2021-0201-FOF, issued June 4, 2020, in Docket No. 20200240-WS, *In re: Proposed amendment of Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges.*

Based on the foregoing, staff recommends the transfer of the water and wastewater systems and Certificate Nos. 517-W and 450-S is in the public interest and should be approved effective the date that the sale becomes final. The resultant Order should serve as the Buyer's certificate and should be retained by the Buyer. The Buyer should submit the executed and recorded deed for continued access to the land upon which its facilities are located and copies of its permit transfer applications to the Commission within 60 days of the Order approving the transfer, which is final agency action. If the sale is not finalized within 60 days of the transfer Order, the Buyer should file a status update in the docket file. The Utility's existing rates and charges including the modification to miscellaneous service charges pursuant to Rule 25-30.460, F.A.C., should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. The Seller is current with respect to annual reports and RAFs through December 31, 2020. The Seller should be responsible for filing annual reports and paying RAFs for 2021, and the Buyer should be responsible for filing the annual reports and paying RAFs for all future years.

Issue 2: What is the appropriate net book value for the CSWR-Aquarina potable water, non-potable water, and wastewater systems for transfer purposes?

Recommendation: For transfer purposes, the net book value (NBV) of potable water, non-potable water, and wastewater systems is \$278,878, \$262,867, and \$82,768, respectively, as of August 16, 2021. Within 90 days of the date of the Consummating Order, CSWR-Aquarina 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 CSWR-Aquarina's 2022 Annual Report when filed. (Blocker)

Staff Analysis: Rate base was last established on December 29, 2016, in Order No. PSC-2016-0583-PAA-WS.¹⁰ The purpose of establishing NBV for potable water, non-potable water, and wastewater systems for transfers is to determine whether an acquisition adjustment should be approved. CSWR-Aquarina's request for a positive acquisition adjustment is addressed in Issue 3. 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 August 16, 2021.¹¹ Staff's recommended NBV, as described below, is shown on Schedule No. 2.

Utility Plant in Service (UPIS)

According to the Utility's general ledger, the potable water, non-potable water, and wastewater UPIS balances were \$1,735,739, \$1,120,935, and \$1,686,513, respectively, as of August 16, 2021. Staff auditors reviewed the Utility's records since the last rate case and determined that several Commission-ordered adjustments were incorrectly recorded. Additionally, staff auditors reviewed plant additions and retirements to UPIS from December 31, 2014, to August 16, 2021, and determined that several other adjustments are necessary. Accordingly, staff recommends that the UPIS balances for potable water, non-potable water, and wastewater be reduced by \$140,084, \$42,946, and \$51,566, respectively, as of August 16, 2021.

Land

The Utility's general ledger reflected potable water, non-potable water, and wastewater land balances of \$37,582, \$24,498, and \$33,680, respectively, as of August 16, 2021. There have been no additions to land since December 31, 2014. Therefore, staff recommends no adjustments to its land balances.

Accumulated Depreciation

The Utility's general ledger reflected potable water, non-potable water, and wastewater accumulated depreciation balances of \$1,331,136, \$852,057, and \$1,487,140, respectively, as of August 16, 2021. Staff reviewed the Utility's records since the last rate case and determined that Commission-ordered adjustments were incorrectly recorded. Additionally, the Utility did not record any accumulated depreciation in 2017 or any retirements since the last rate case. Staff recalculated depreciation accruals for all water and wastewater accounts since that last rate case

¹⁰ Order No. PSC-16-0583-PAA-WS, issued December 29, 2016, in Docket No. 20150010-WS, *In re: Application for staff-assisted rate case in Brevard County by Aquarina Utilities, Inc.*

¹¹ Net book value is calculated through the date of the closing. According to the Utility's application, the closing will not occur until after the transaction receives Commission approval. Therefore, staff is relying on the most current information provided to staff auditors at the time of the filing.

through August 16, 2021, using audited UPIS balances and the depreciation rates established by Rule 25-30.140, F.A.C. Accordingly, staff recommends that the accumulated depreciation balances for potable water, non-potable water, and wastewater be reduced by \$140,848, \$30,533, and \$49,009, respectively, as of August 16, 2021.

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

The Utility's general ledger reflected potable water, non-potable water, and wastewater CIAC balances of \$362,028, \$35,785, and \$605,133, respectively, as of August 16, 2021. The Utility's general ledger also reflected potable water, non-potable water, and wastewater accumulated amortization of CIAC balances of \$201,870, \$23,662, and \$428,254, respectively, as of August 16, 2021. Staff traced CIAC and accumulated amortization of CIAC balances from December 31, 2014, to August 16, 2021, using supporting documentation. Staff determined that the Utility did not start with the Commission-approved balances in Order No. PSC-16-0583-PAA-WS.¹² Staff recalculated CIAC using the audited plant balances and depreciation rates established by Rule 25-30.140(2), F.A.C. Staff also recalculated accumulated amortization of CIAC using the audited CIAC balances and the rates established by Rule 25-30.140(2), F.A.C. Accordingly, staff recommends that the CIAC balances for potable water, non-potable water, and wastewater be increased by \$11,495, \$11,851, and \$7,362, respectively, as of August 16, 2021. Staff also recommends that the accumulated amortization of CIAC balances for potable water, non-potable water, and wastewater be increased by \$7,582, \$5,878, and \$36,514, respectively, as of August 16, 2021.

Net Book Value

The Utility's general ledger reflected a NBV of \$282,027, \$281,253, and \$56,174 for potable water, non-potable water, and wastewater, respectively, as of August 16, 2021. Based on the adjustments described above, staff recommends a NBV of \$278,878, \$262,867, and \$82,768 for CSWR-Aquarina's potable water, non-potable water, and wastewater systems, respectively, as of August 16, 2021. Staff's recommended NBV and the National Association of Regulatory Utility Commissioners, Uniform System of Accounts (NARUC USOA) balances for UPIS and accumulated depreciation are shown on Schedule No. 2 as of August 16, 2021. As addressed in Issue 3, a positive acquisition adjustment should not be recognized for rate making purposes.

Conclusion

Based on the above, staff recommends that for transfer purposes the NBV of CSWR-Aquarina's potable water, non-potable water, and wastewater systems is \$278,878, \$262,867, and \$82,768, respectively, as of August 16, 2021. Within 90 days of the date of the Consummating 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 CSWR-Aquarina's 2022 Annual Report when filed.

¹² Order No. PSC-16-0583-PAA-WS, issued December 29, 2016, in Docket No. 20150010-WS, *In re: Application for staff-assisted rate case in Brevard County by Aquarina Utilities, Inc.*

Issue 3: Should a positive acquisition adjustment be recognized for ratemaking purposes?

Recommendation: No. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment should not be granted as the Buyer failed to demonstrate extraordinary circumstances. (Blocker, M. Watts)

Staff Analysis: In its filing, the Buyer requested a positive acquisition adjustment be included in the calculation of CSWR-Aquarina's rate base. An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of acquisition. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment results when the purchase price is greater than the NBV and a negative acquisition adjustment results when the purchase price is less than the NBV. A positive acquisition adjustment, if approved, increases rate base.

According to the purchase agreement, the Buyer purchased the Utility for \$2,500,000. The Buyer has allocated \$825,000, \$775,000, and \$900,000 of the purchase price to potable water, non-potable water and wastewater, respectively. As discussed in Issue 2, staff is recommending a total NBV for the potable water, non-potable water and wastewater systems of \$624,513 (\$278,878 + \$262,867 + \$82,768). This would result in a total positive acquisition adjustment of \$1,875,487.

Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. Rule 25-30.0371(2), F.A.C., states:

In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, anticipated cost efficiencies, and whether the purchase was made as part of an arms-length transaction.

One of the Buyer's justifications for the purchase price is to ensure sale proceeds are sufficient to pay off the Seller's long-term debt obligations. While the factors listed in the rule are listed by way of example and other evidence may be offered, the purpose of the rule is to provide incentive for the acquisition of small, troubled systems, the elimination of substandard operating conditions, and allow customers to receive benefits which amount to a better quality of service at a reasonable rate. Order No. PSC-02-0997-FOF-WS, issued July 23, 2002, in Docket No. 20001502-WS, *In re: Proposed Rule 25-30.0371, F.A.C., Acquisition Adjustment*. The items enumerated in the rule are consistent with the promotion of benefits to customers and bringing troubled systems into regulatory compliance; paying off the Seller's long-term debt obligation is not.

Staff believes the Buyer failed to demonstrate the extraordinary circumstances necessary to support the inclusion of a positive acquisition adjustment, as discussed below.

Improvements in Quality of Service and Compliance with Regulatory Mandates

In its application, CSWR-Aquarina listed six business practices that it believes will improve the quality of service to its customers: (1) provision of 24-hour emergency service phone numbers; (2) on-call emergency service personnel who are required to respond to emergency service calls within prescribed time limits; (3) a computerized maintenance management system; (4) access to resources not usually available to comparably sized systems and the ability to supplement local personnel with resources owned by the parent and sister companies; (5) online bill payment options; and (6) an updated website for customer communication, bulletins, procedures, etc.

Staff reviewed the complaints filed with the Commission for the five-year period prior to the application, May 2016 to May 2021. The Commission recorded a total of 31 complaints out of its approximately 330 customers, pertaining to billing (3 complaints), quality of service (5 complaints), outages (15 complaints), water quality/pressure (2 complaints), repair (3 complaints), or delay in connection (3 complaints). Twenty of the 31 total complaints were received on May 8 and 9, 2017, and were related to a single event at the water treatment plant caused by a power surge due to a faulty transformer, which was replaced by Florida Power & Light Company. In 2017, AUI made some improvements to its nonpotable water system to address the problems that caused the complaints relating to that system, for which it requested recovery as part of a limited proceeding in 2019.¹³ There were no complaints involving the wastewater treatment system. Based on the foregoing analysis, AUI appears to respond and resolve customer complaints in a timely manner. Additionally, a majority of the Utility's customer complaints were attributable to a single event beyond the Utility's control. As discussed in Issue 1, the Utility is currently in compliance with the DEP's rules and regulations. Staff also reviewed the DEP inspection reports for the three years prior to the Utility's transfer application and found that the Utility was also in compliance during that time frame after correcting minor deficiencies identified by the DEP. There was no record of DEP compliance enforcement action within the past three years and there appears to be no pending regulatory requirements from any governmental authority.

Based on the Commission's complaint data and the DEP's reports, it does not appear that AUI currently has issues with respect to quality of service and regulatory compliance such that they would warrant extraordinary efforts to remedy. For this reason, staff does not believe the Utility has demonstrated extraordinary circumstances for its requested positive acquisition adjustment. Instead, staff believes that the proposed anticipated improvements in quality of service and compliance with regulatory mandates demonstrates CSWR-Aquarina's intention to responsibly execute its obligations as a utility owner. While staff does not believe the Utility's anticipated improvements justify its requested positive acquisition adjustment, these improvements may be considered for prudence and cost recovery in a future rate proceeding.

Anticipated Cost Efficiencies

In its application, the Buyer stated that based on its size and anticipated consolidation of many small systems under one financial and managerial entity would result in operational cost efficiencies particularly in the areas of:

¹³ Order No. PSC-2020-0158-PAA-WS, issued May 15, 2020, in Docket No. 20190080-WS, *In re: Application for limited proceeding rate increase in Brevard County, by Aquarina Utilities, Inc.*

- PSC and environmental regulatory reporting
- Managerial and operational oversight
- Utility asset planning
- Engineering planning
- Ongoing utility maintenance
- Utility record keeping
- Customer service responsiveness
- Improved access to capital necessary to repair and upgrade Aquarina to ensure compliance with all health and environmental requirements and ensure service to customers remains safe and reliable

The Buyer also stated that CSWR-Aquarina would bring long-term rate stability to the Utility, should the transfer be approved. Staff agrees that economies of scale and potential consolidation of several systems in Florida, as proposed by CSWR-Aquarina, could bring some amount of long-term rate stability. However, absent specific and detailed support for these assertions, the Buyer has failed to meet its burden for demonstrating extraordinary circumstances. Instead, much of the information provided by the Buyer lacks specificity and was provided nearly verbatim in each of the other two CSWR-Florida Utility Operating Company, LLC transfer dockets.¹⁴

Staff and OPC made several requests for quantifiable information to support the Buyer's assertions, such as anticipated rate impact and potential/projected cost efficiencies. The Buyer repeatedly stated that it was unable to provide quantitative information at the granularity requested by staff. However, staff does not believe its requests were unreasonable given that the burden of proof to support a positive acquisition adjustment lies with the Buyer. This is particularly true in the instant case when the requested relief is a positive acquisition adjustment of \$1,875,487, which is approximately three times greater than the system's current NBV of \$624,513. Further, in response to staff's first data request for an estimate and breakdown of projected operation and maintenance (O&M) expenses, the Buyer stated that the benefit from the increase in economies of scale and other advantages provided by CSWR-Aquarina would not necessarily be reflected in cost savings compared to current Aquarina operations.

Staff's recommendation is also consistent with the Commission's decision in Order No. PSC-2020-0458-PAA-WS.¹⁵ In that docket, Royal Waterworks, Inc. (RWI) identified estimates of anticipated cost efficiencies, including a reduction in O&M expense and a reduction of cost of capital that would result from the transfer. Additionally, RWI provided several improvements it made to the water treatment plant and wastewater lift station since acquisition to improve the quality of service and compliance with regulatory mandates. While the Commission

¹⁴ Docket No. 20210095-WU, *In re: Application for transfer of water facilities of Sunshine Utilities of Central Florida, Inc. and Water Certificate No. 363-W to CSWR-Florida Utility Operating Company, LLC, in Marion County*, and Docket No. 20210133-SU, *In re: Application for transfer of water facilities of North Peninsula Utilities Corporation and Wastewater Certificate No. 249-S to CSWR-Florida Utility Operating Company, LLC, in Volusia County*.

¹⁵ Order No. PSC-2020-0458-PAA-WS, issued November, 23, 2020, in Docket No. 20190170-WS, *In re: Application for transfer of facilities and Certificate Nos. 259-W and 199-S in Broward County from Royal Utility Company to Royal Waterworks, Inc.*

acknowledged that RWI accomplished cost savings, it did not believe the actions performed demonstrated extraordinary circumstances that would justify approval of a positive acquisition adjustment.¹⁶

Conclusion

Pursuant to Rule 25-30.0371, F.A.C., staff believes a positive acquisition adjustment should not be granted as the Buyer did not demonstrate extraordinary circumstances. Staff believes the Buyer's anticipated improvements in quality of service and compliance with regulatory mandates does not illustrate extraordinary circumstances and instead demonstrates CSWR-Aquarina's intentions to responsibly execute its obligations as a utility owner. Additionally, the Seller's long-term debt is not a persuasive factor to be considered in the request of a positive acquisition adjustment pursuant to Rule 25-30.0371(2), F.A.C.

¹⁶ Although decided prior to the adoption of the acquisition adjustment rule in 2010, the Commission has previously denied a requested positive acquisition adjustment, stating that the utility relied primarily upon the improvement of service as a basis for a positive acquisition adjustment; however, "compliance with wastewater treatment standards is a requirement of statute and rule, and not an extraordinary circumstance which would warrant the allowance of a positive acquisition adjustment." Order No. 13578, issued August 9, 1984, in Docket No. 19830568-SU, *In re: Application of P.I. Utilities Co., Inc., for a Certificate to Operate a Sewer Utility in Volusia County, Florida, and Petition of Peninsula Utilities, Inc., to Substitute Applicant.*

Issue 4: Should this docket be closed?

Recommendation: Yes. 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, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, that the Buyer has submitted the executed and recorded warranty deed and that the Buyer has submitted copies of its applications for permit transfers to the DEP and the SJRWMD, within 60 days of the Commission's Order approving the transfer. (Crawford)

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, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, that the Buyer has submitted the executed and recorded warranty deed and that the Buyer has submitted copies of its applications for permit transfers to the DEP and the SJRWMD, within 60 days of the Commission's Order approving the transfer.

TERRITORY DESCRIPTION
CSWR-Florida Utility Operating Company, LLC
Brevard County
Water and Wastewater Service

A PORTION OF SECTIONS 25, 26, 35 AND 36, TOWNSHIP 29 SOUTH, RANGE 38 EAST, AND SECTION 31, TOWNSHIP 29 SOUTH, RANGE 39 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE WEST 1/4 CORNER OF SAID SECTION 25 AND RUN N00°18'50"W ALONG THE WEST LINE OF SAID SECTION 25 A DISTANCE OF 1,340.83 FEET TO THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTH 1/2 OF SAID SECTION 25; THENCE RUN S88°31'07"E ALONG NORTH LINE OF THE SOUTH 1/2 OF THE NORTH 1/2 OF SECTION 25 A DISTANCE OF 1,351 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF THE ATLANTIC OCEAN; THENCE RUN SOUTHERLY ALONG SAID MEAN HIGH WATER LINE THROUGH SAID SECTIONS 25, 36, AND 31 A DISTANCE OF 9,203 FEET MORE OR LESS TO THE EASTERLY EXTENSION OF THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SAID SECTION 36; THENCE RUN N88°23'42"W ALONG SAID LINE AND THE SOUTH LINE OF THE NORTH 1/2 OF THE SOUTH 1/2 OF SECTION 36 A DISTANCE OF 790 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF THE INDIAN RIVER; THENCE RUN NORTHERLY ALONG THE MEAN HIGH WATER LINE OF THE INDIAN RIVER AND MULLET CREEK 8,315 FEET MORE OR LESS TO THE SOUTH LINE OF SAID SECTION 26; THENCE RUN S88°22'47"E ALONG THE SOUTH LINE OF SAID SECTION 26 A DISTANCE OF 982 FEET TO THE COMMON CORNER OF SAID SECTIONS 25, 26, 35 AND 36; THENCE RUN ALONG THE WEST LINE OF SAID SECTION 25 N00°19'34"W 1,327.58 FEET TO THE SOUTHEAST CORNER OF GOVERNMENT LOT 3 OF SAID SECTION 26; THENCE RUN N88°30'25"W ALONG THE SOUTH LINE OF SAID GOVERNMENT LOT 3 A DISTANCE OF 1,276 FEET MORE OR LESS TO THE MEAN HIGH WATER LINE OF MULLET CREEK; THENCE RUN NORTHERLY ALONG THE MEAN HIGH WATER LINE OF MULLET CREEK 1,903 FEET MORE OR LESS TO THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 26; THENCE RUN S88°31'12"E ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SECTION 26 A DISTANCE OF 2,431 FEET MORE OR LESS TO THE POINT OF BEGINNING.

FLORIDA PUBLIC SERVICE COMMISSION
authorizes
CSWR-Florida Utility Operating Company, LLC
pursuant to
Certificate Number 517-W

to provide water service in Brevard 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>
Order No. 22075	10/19/89	19880595-WS	Original Certificate
Order No. 23059	06/11/90	19900167-WS	Territory Amendment
PSC-92-0119-FOF-WS	03/30/92	19911129-WS	Territory Amendment
PSC-97-0206-FOF-WS	02/21/97	19960095-WS	Name Change
PSC-97-0206A-FOF-WS	03/05/97	19960095-WS	Amendatory Order
PSC-97-0918-FOF-WS	08/04/97	19970093-WS	Transfer Majority Control
PSC-03-0787-FOF-WS	07/02/03	20020091-WS	Transfer Majority Control
PSC-03-1098-FOF-WS	10/02/03	20020091-WS	Amendatory Order
PSC-10-0329-FOF-WS	05/24/10	20100094-WS	Receiver Appointed
PSC-12-0577-PAA-WS	10/25/12	20110061-WS	Transfer
*	*	20210093-WS	Transfer

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

FLORIDA PUBLIC SERVICE COMMISSION
authorizes
CSWR-Florida Utility Operating Company, LLC
pursuant to
Certificate Number 450-S

to provide wastewater service in Brevard 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>
Order No. 22075	10/19/89	19880595-WS	Original Certificate
Order No. 23059	06/11/90	19900167-WS	Territory Amendment
PSC-92-0119-FOF-WS	03/30/92	19911129-WS	Territory Amendment
PSC-97-0206-FOF-WS	02/21/97	19960095-WS	Name Change
PSC-97-0206A-FOF-WS	03/05/97	19960095-WS	Amendatory Order
PSC-97-0918-FOF-WS	08/04/97	19970093-WS	Transfer Majority Control
PSC-03-0787-FOF-WS	07/02/03	20020091-WS	Transfer Majority Control
PSC-03-1098-FOF-WS	10/02/03	20020091-WS	Amendatory Order
PSC-10-0329-FOF-WS	05/24/10	20100094-WS	Receiver Appointed
PSC-12-0577-PAA-WS	10/25/12	20110061-WS	Transfer
*	*	20210093-WS	Transfer

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

**CSWR – Florida Utility Operating Company, LLC
(Aquarina Utilities, Inc.)
Monthly Water Rates**

Residential and General Service

Base Facility Charge by Meter Size

5/8" x 3/4"	\$23.10
3/4"	\$34.65
1"	\$57.75
1 1/2"	\$115.50
2"	\$184.80
3"	\$369.60
4"	\$577.50
6"	\$1,155.00

Charge Per 1,000 gallons – General Service \$8.37

Irrigation Service

Base Facility Charge by Meter Size

5/8" x 3/4"	\$11.47
3/4"	\$17.21
1"	\$28.68
1 1/2"	\$57.35
2"	\$91.76
3"	\$200.73
4"	\$286.75
6"	\$573.50
8"	\$1,032.30

Charge Per 1,000 gallons – Irrigation Service \$1.60

Initial Customer Deposits

Residential Service and General Service

5/8" x 3/4"	\$82.00
All over 5/8" x 3/4"	2x Average Estimated Bill

Service Availability Charges

Potable Service

Main Extension Charge

Residential per ERC (350 GPD)	\$500.00
All others per gallon	\$1.43

Meter Installation Charge

5/8" x 3/4"	\$150.00
All other meter sizes	Actual Cost

Plant Capacity Charge

Residential per ERC (350 GPD)	\$780.00
All others per gallon	\$2.23

Non-Potable Service

Main Extension Charge

Residential per ERC (350 GPD)	\$50.00
All others per gallon	\$0.14

Meter Installation Charge

5/8" x 3/4"	\$150.00
All other meter sizes	Actual Cost

Plant Capacity Charge

Residential per ERC (350 GPD)	\$250.00
All others per gallon	\$0.71

**CSWR – Florida Utility Operating Company, LLC
(Aquarina Utilities, Inc.)
Monthly Wastewater Rates**

Residential Service

Base Facility Charge – All Meter Sizes	\$29.70
Charge Per 1,000 gallons 8,000 gallon cap	\$6.44
Flat Rate (Residential wastewater only service)	\$46.53

General Service

Base Facility Charge by Meter Size	
5/8" x 3/4"	\$29.70
3/4"	\$44.55
1"	\$74.25
1 1/2"	\$148.49
2"	\$237.58
3"	\$475.17
4"	\$742.45
6"	\$1,484.90
Charge Per 1,000 gallons	\$7.73

Initial Customer Deposits

Residential Service and General Service

5/8" x 3/4"	\$87.00
All over 5/8" x 3/4"	2x Average Estimated Bill

Existing Miscellaneous Service Charges

	<u>Normal Hours</u>	<u>After Hours</u>
Initial Connection Charge	\$26.00	\$32.00
Normal Reconnection Charge	\$38.00	\$47.00
Violation Reconnection Charge (water)	\$38.00	\$47.00
Violation Reconnection Charge (wastewater)	Actual Cost	Actual Cost
Premises Visit Charge	\$26.00	\$99.00
Late Payment Charge		\$7.00
Direct Debit Charge		\$1.36
NSF Check Charge		Pursuant to Section 68.065, F.S.

**Staff Recommended
 Miscellaneous Service Charges**

	<u>Normal Hours</u>	<u>After Hours</u>
Premises Visit Charge	\$38.00	\$99.00
Violation Reconnection Charge (water)	\$38.00	\$47.00
Violation Reconnection Charge (wastewater)	Actual Cost	Actual Cost
Late Payment Charge		\$7.00
Direct Debit Charge		\$1.36
NSF Charges		Pursuant to Section 68.065, F.S.

**CSWR-Florida Utility Operating Company, LLC
 (Aqarina Utilities, Inc.)**

**Potable Water System
 Schedule of Net Book Value as of August 16, 2021**

<u>Description</u>	<u>Balance Per Utility</u>	<u>Adjustments</u>		<u>Staff</u>
Utility Plant in Service	\$1,735,739	(\$140,084)	A	\$1,595,655
Land & Land Rights	37,582	-		37,582
Accumulated Depreciation	(1,331,136)	140,848	B	(1,190,288)
CIAC	(362,028)	(11,495)	C	(373,523)
Accumulated Amortization of CIAC	<u>201,870</u>	<u>7,582</u>	D	<u>209,452</u>
Total	<u>\$282,027</u>	<u>(\$3,149)</u>		<u>278,878</u>

Non-Potable Water System

<u>Description</u>	<u>Balance Per Utility</u>	<u>Adjustments</u>		<u>Staff</u>
Utility Plant in Service	\$1,120,935	(\$42,946)	A	\$1,077,989
Land & Land Rights	24,498	-		24,498
Accumulated Depreciation	(852,057)	30,533	B	(821,524)
CIAC	(35,785)	(11,851)	C	(47,636)
Accumulated Amortization of CIAC	<u>23,662</u>	<u>5,878</u>	D	<u>29,540</u>
Total	<u>\$281,253</u>	<u>(\$18,386)</u>		<u>\$262,867</u>

Wastewater System

<u>Description</u>	<u>Balance Per Utility</u>	<u>Adjustments</u>		<u>Staff</u>
Utility Plant in Service	\$1,686,513	(\$51,566)	A	\$1,634,947
Land & Land Rights	33,680	-		33,680
Accumulated Depreciation	(1,487,140)	49,009	B	(1,438,131)
CIAC	(605,133)	(7,362)	C	(612,495)
Accumulated Amortization of CIAC	<u>428,254</u>	<u>36,514</u>	D	<u>464,768</u>
Total	<u>\$56,174</u>	<u>\$26,595</u>		<u>\$82,769</u>

**CSWR-Florida Utility Operating Company, LLC
(Aquarina Utilities, Inc.)**

Potable Water System

Explanation of Adjustments to Net Book Value as of as of August 16, 2021

Explanation	Amount
A. Utility Plant in Service To reflect the appropriate amount of UPIS.	(\$140,084)
B. Accumulated Depreciation To reflect the appropriate amount of accumulated depreciation.	140,848
C. Contributions in Aid of Construction To reflect the appropriate amount of CIAC.	(11,495)
D. Accumulated Amortization of CIAC To reflect the appropriate amount of accumulated amortization of CIAC.	<u>7,582</u>
Total Adjustments to Net Book Value as of May 31, 2021	<u>(\$3,149)</u>

**CSWR-Florida Utility Operating Company, LLC
(Aquarina Utilities, Inc.)**

Non-Potable Water System

Explanation of Adjustments to Net Book Value as of as of August 16, 2021

Explanation	Amount
E. Utility Plant in Service To reflect the appropriate amount of UPIS.	(\$42,946)
F. Accumulated Depreciation To reflect the appropriate amount of accumulated depreciation.	30,533
G. Contributions in Aid of Construction To reflect the appropriate amount of CIAC.	(11,851)
H. Accumulated Amortization of CIAC To reflect the appropriate amount of accumulated amortization of CIAC.	<u>5,878</u>
Total Adjustments to Net Book Value as of May 31, 2021	<u>(\$18,386)</u>

**CSWR-Florida Utility Operating Company, LLC
(Aqarina Utilities, Inc.)**

Wastewater System

Explanation of Adjustments to Net Book Value as of as of August 16, 2021

Explanation	Amount
I. Utility Plant in Service To reflect the appropriate amount of UPIS.	(\$51,566)
J. Accumulated Depreciation To reflect the appropriate amount of accumulated depreciation.	49,009
K. Contributions in Aid of Construction To reflect the appropriate amount of CIAC.	(7,362)
L. Accumulated Amortization of CIAC To reflect the appropriate amount of accumulated amortization of CIAC.	<u>36,514</u>
Total Adjustments to Net Book Value as of May 31, 2021	<u>\$26,595</u>

**CSWR-Florida Utility Operating Company, LLC
 (Aquarina Utilities, Inc.)**

Potable Water System

Explanation of Adjustments to Net Book Value as of August 16, 2021

Account No.	Description	UPIS	Accumulated Depreciation
301	Organization	\$397	\$370
304	Structures & Improvements	30,660	6,144
307	Wells & Springs	116,507	116,507
309	Supply Mains	2,057	389
311	Pumping Equipment	54,958	18,208
320	Water Treatment Equipment	357,287	297,383
330	Distribution Reservoirs & Standpipes	625,448	625,448
331	Transmission & Distribution Mains	163,984	71,013
333	Services	53,661	(24,864)
334	Meters & Meter Installations	140,002	33,407
336	Backflow Prevention Devices	4,408	2,388
339	Other Plant & Miscellaneous Equipment	1,530	636
341	Transportation Equipment	40,596	40,596
343	Tools, Shop, & Garage Equipment	900	401
344	Laboratory Equipment	2,000	1,000
348	Other Tangible Plant	<u>1,261</u>	<u>1,261</u>
	Total	<u>\$1,595,655</u>	<u>\$1,190,288</u>

**CSWR-Florida Utility Operating Company, LLC
(Aquarina Utilities, Inc.)**

Non-Potable Water System

Explanation of Adjustments to Net Book Value as of August 16, 2021

Account No.	Description	UPIS	Accumulated Depreciation
301	Organization	\$653	\$608
304	Structures & Improvements	811	154
307	Wells & Springs	115,430	115,430
309	Supply Mains	23,143	17,903
311	Pumping Equipment	115,351	25,750
320	Water Treatment Equipment	39,669	39,669
330	Distribution Reservoirs & Standpipes	512,792	512,792
331	Transmission & Distribution Mains	153,779	92,698
334	Meters & Meter Installations	105,681	10,323
335	Hydrants	10,050	5,955
339	Other Plant & Miscellaneous Equipment	<u>631</u>	<u>242</u>
	Total	<u>\$1,077,989</u>	<u>\$821,524</u>

**CSWR-Florida Utility Operating Company, LLC
(Aquarina Utilities, Inc.)**

Wastewater System

Explanation of Adjustments to Net Book Value as of August 16, 2021

Account No.	Description	UPIS	Accumulated Depreciation
351	Organization	\$1,050	\$1,049
354	Structures & Improvements	31,971	12,196
360	Collection Sewers - Force	169,985	164,230
361	Collection Sewers - Gravity	328,394	208,725
363	Services to Customers	170,960	164,840
371	Pumping Equipment	50,256	50,256
380	Treatment and Disposal - Equipment	709,777	666,831
382	Outfall Sewer Lines	144,908	144,908
389	Other Plant & Miscellaneous Equipment	3,333	954
391	Transportation Equipment	20,298	20,298
394	Laboratory Equipment	565	396
398	Other Tangible Plant	<u>3,449</u>	<u>3,449</u>
	Total	<u>\$1,634,947</u>	<u>\$1,438,131</u>

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 17, 2022
TO: Docket No. 20210095-WU
FROM: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk *AT*
RE: Rescheduled Commission Conference Agenda Item

Staff's memorandum assigned DN 00378-2022 was filed on January 20, 2022, for the February 1, 2022 Commission Conference. As the vote sheet reflects, this item was deferred. This item has been placed on the March 1, 2022 Commission Conference Agenda.

/ajt

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2022 FEB 17 AM 8:32
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 20, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Maloy, Ramos) *TB*
Division of Accounting and Finance (Blocker, Fletcher) *ALM*
Division of Economics (Sibley) *JGH*
Office of the General Counsel (Lherisson) *JSC*

RE: Docket No. 20210095-WU – Application for transfer of water facilities of Sunshine Utilities of Central Florida, Inc. and Water Certificate No. 363-W to CSWR-Florida Utility Operating Company, LLC, in Marion County.

AGENDA: 02/01/22 – Regular Agenda – Proposed Agency Action for Issues 2 and 3 - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Please place item on Agenda immediately after Docket No. 20210093-WS.

Case Background

Sunshine Utilities of Central Florida, Inc. (SUCF, Utility, or Seller) is a Class A water utility providing service to approximately 3,934 residential customers in Marion County. The Utility is comprised of 23 water systems and is located in the St. Johns River Water Management District (SJRWMD) in the Water Resource Caution Area. Wastewater service is provided by septic tanks. In its 2020 Annual Report, SUCF reported total operating revenues of \$1,104,634.

Docket No. 20210095-WU

Date: January 20, 2022

The Florida Public Service Commission (Commission) granted an original water certificate to Sunshine Utility Company in 1982.¹ Subsequently, the Commission approved 21 certificate amendments and transfers, including the Quail Run system in 2002,² the Sandy Acres system in 2002,³ and the Ponderosa Pines system in 2003.⁴ The rates for the Utility were last set by the Commission in 2012.⁵

On May 5, 2021, CSWR-Florida Utility Operating Company, LLC (CSWR-Sunshine or Buyer) filed an application with the Commission for the transfer of Certificate No. 363-W from SUCF to CSWR-Sunshine in Marion County. The sale will close after the Commission has voted to approve the transfer. In its application, the Buyer has requested a positive acquisition adjustment, which is discussed in Issue 3.

Intervention by the Office of Public Counsel (OPC) was acknowledged on August 26, 2021. OPC and staff have issued a number of discovery or data requests to CSWR-Sunshine in this docket.

This recommendation addresses the transfer of the water system and Certificate No. 363-W, the appropriate net book value of the water system for transfer purposes, and the request for an acquisition adjustment. The Commission has jurisdiction pursuant to Sections 367.071 and 367.081, Florida Statutes (F.S.).

¹ Order No. 11138, issued September 3, 1982, in Docket Nos. 19810386-W, *In re: Application of Sunshine Utility Company for a certificate to operate a utility in Marion County, Florida.*

² Order No. PSC-02-1292-PAA-WU, issued September 23, 2002, in Docket No. 20020256-WU, *In re: Application for transfer of Certificate No. 380-W from A. P. Utilities, Inc. in Marion County to Sunshine Utilities of Central Florida, Inc., holder of Certificate No. 363-W, for amendment of Certificate No. 363-W, and for cancellation of Certificate No. 380-W.*

³ Order No. PSC-02-1832-PAA-WU, issued December 20, 2002, in Docket No. 20011632-WU, *In re: Application for transfer of Certificate No. 364-W from Linadale Water Company in Marion County to Sunshine Utilities of Central Florida, Inc.*

⁴ Order No. PSC-03-1333-PAA-WU, issued November 24, 2003, in Docket No. 20030340-WU, *In re: Application for transfer of facilities of Community Water Co-Op, Inc., an exempt utility in Marion County, to Sunshine Utilities of Central Florida, Inc. (holder of Certificate No. 363-W); and for amendment of Certificate No. 363-W to add territory.*

⁵ Order Nos PSC-12-0357-PAA-WU and PSC-12-0396-PAA-WU, issued July 10, 2012 and August 1, 2012, in Docket No. 20100048-WU, *In re: Application for increase in water rates in Marion County by Sunshine Utilities of Central Florida, Inc.*

Discussion of Issues

Issue 1: Should the transfer of Certificate No. 363-W in Marion County from Sunshine Utilities of Central Florida, Inc. to CSWR-Florida Utility Operating Company, LLC be approved?

Recommendation: Yes. The transfer of the water system and Certificate No. 363-W is in the public interest and should be approved effective the date that the sale becomes final. The resultant Order should serve as the Buyer's certificate and should be retained by the Buyer. The Buyer should submit the executed and recorded deed for continued access to the land upon which its facilities are located and copies of its permit transfer applications to the Commission within 60 days of the Order approving the transfer, which is final agency action. If the sale is not finalized within 60 days of the resultant Order, the Buyer should file a status update in the docket file. The Utility's existing rates and charges, including the modification to miscellaneous service charges pursuant to Rule 25-30.460, Florida Administrative Code (F.A.C.), should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. The Seller is current with respect to annual reports and regulatory assessment fees (RAFs) through December 31, 2020. The Buyer should be responsible for filing annual reports and paying RAFs for all future years. (Maloy, Blocker, Sibley)

Staff Analysis: On May 5, 2021, CSWR-Sunshine filed an application for the transfer of Certificate No. 363-W from SUCF to CSWR-Sunshine in Marion County. The application complies with Section 367.071, F.S., and Commission rules concerning applications for transfer of certificates. The sale to CSWR-Sunshine will become final after Commission approval of the transfer, pursuant to Section 367.071(1), F.S.

Noticing, Territory, and Land Ownership

CSWR-Sunshine provided notice of the application pursuant to Section 367.071, F.S., and Rule 25-30.030, F.A.C. No objections to the transfer were filed, and the time for doing so has expired. The application contains a description of the service territory, which is appended to this recommendation as Attachment A. In its response to staff's September 8, 2021 deficiency letter, CSWR-Sunshine provided an unrecorded warranty deed as evidence that the buyer will have long-term use of the land upon which the treatment facilities are located pursuant to Rule 25-30.037(2)(s), F.A.C. CSWR-Sunshine should submit the executed and recorded deed to the Commission within 60 days of the Order.

Purchase Agreement and Financing

Pursuant to Rule 25-30.037(2)(g), (h), and (i), F.A.C., the application contains a statement regarding financing and a copy of the purchase and sale agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. There are no guaranteed revenue contracts, customer advances, or debt of SUCF that must be disposed of with regard to the transfer. CSWR-Sunshine will review all leases and developer agreements and will assume or renegotiate those agreements on a case-by-case basis prior to closing. Any customer deposits will be refunded to customers by the Seller prior to the closing. According to the purchase and sale agreement, the total purchase price for the assets is \$6,000,000. According to the Buyer, the

closing has not yet taken place and is dependent on Commission approval of the transfer, pursuant to Section 367.071(1), F.S.

Facility Description and Compliance

The Utility consists of 23 separate water systems. Raw water is drawn from ground well(s), is primarily treated by hypochlorination, and stored in hydropneumatic tank(s) until distribution for each of the Utility's respective water systems. The most recent inspections conducted by the Florida Department of Environmental Protection (DEP) determined all 23 systems were in compliance with DEP's rules and regulations. On December 21, 2021, Sun Ray Estates, one of the Utility's 23 systems, was issued a Warning Letter by the DEP for failure to monitor disinfection by-products (DBPs) contaminants during September 2021. Staff notes that the DEP has notified the Utility in the past of this same violation and once notified, it appears the Utility remits its monitoring reports for DBPs to the DEP as required.

CSWR-Sunshine provided copies of the Utility's current permits from the DEP and SJRWMD pursuant to Rule 25-30.037(2)(r)(1), F.A.C. The Buyer should provide copies of its permit transfer applications, reflecting the change in ownership, to the Commission within 60 days of the Order. In Exhibit G of the Buyer's application, CSWR-Sunshine provided its assessment of SUCF's water systems, and lists several improvements and repairs it recommends be made to the systems. The Buyer's suggested repairs and improvements, which do not appear to be required by a governmental authority, are discussed further in Issue 3.

Technical and Financial Ability

Pursuant to Rule 25-30.037(2)(l) and (m), F.A.C., the application contains statements describing the technical and financial ability of the Buyer to provide service to the proposed service area. As referenced in the transfer application, the Buyer will fulfill the commitments, obligations, and representation of the Seller with regards to Utility matters. CSWR-Sunshine's application states that it owns and operates more than 257 water/wastewater systems in Missouri, Arkansas, Kentucky, Louisiana, Texas, and Tennessee that service more than 48,860 water and 77,595 wastewater customers. The Buyer plans to use qualified and licensed contractors to provide routine operation and maintenance of the systems, as well as to handle billing and customer service. Staff reviewed the financial statements of CSWR-Sunshine and believes the Buyer has documented adequate resources to support the Utility's water operations. Based on the above, staff recommends that the Buyer has demonstrated the technical and financial ability to provide service to the existing service territory.

Rates and Charges

Sunshine's rates and charges were last approved in a file and suspend rate case in 2012. Since the Utility's last rate case, the rates have been changed by four price index rate increases and a rate decrease to remove an expired rate case amortization.⁶ 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 Sunshine's existing rates and charges as shown on Schedule No. 1-A, remain in effect, until a change is authorized by the Commission.

⁶ Order No. PSC-12-0357-PAA-WU, issued July 10, 2012, in Docket No. 20100048-WU, *In re: Application for increase in water rates in Marion County by Sunshine Utilities of Central Florida, Inc.*

With respect to miscellaneous service charges, effective June 24, 2021, Rule 25-30.460, F.A.C., was amended to remove initial connection and normal reconnection charges.⁷ The definitions for initial connection charges and normal reconnection charges were subsumed in the definition of the premises visit charge. It was envisioned that the utility tariffs would be reviewed by staff on a prospective basis to ensure conformance with the amended rule.

The Utility's miscellaneous service charges consist of initial connection and normal reconnection charges. These charges are the same as the premises visit charge. Therefore, staff believes it is appropriate at this time to remove the initial connection and normal reconnection charges and update the definition for the premises visit charge to comply with amended Rule 25-30.460, F.A.C. The appropriate miscellaneous service charges are shown on Schedule No. 1-B.

Regulatory Assessment Fees and Annual Report

Staff has verified that the Utility is current with respect to annual reports and RAFs through December 31, 2020. CSWR-Sunshine will be responsible for filing annual reports and paying RAFs upon the date of closing and thereafter.

Conclusion

Based on the foregoing, staff recommends the transfer of the water system and Certificate No. 363-W is in the public interest and should be approved effective the date that the sale becomes final. The resultant Order should serve as the Buyer's certificate and should be retained by the Buyer. The Buyer should submit the executed and recorded deed for continued access to the land upon which its facilities are located and copies of its permit transfer applications to the Commission within 60 days of the Order approving the transfer, which is final agency action. If the sale is not finalized within 60 days of the transfer Order, the Buyer should file a status update in the docket file. The Utility's existing rates and charges including the modification to miscellaneous service charges pursuant to Rule 25-30.460, F.A.C., should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. The Seller is current with respect to annual reports and RAFs through December 31, 2020. CSWR-Sunshine should be responsible for filing annual reports and paying RAFs for 2021 and all future years.

⁷ Order No. PSC-2021-0201-FOF-WS, issued June 4, 2020, in Docket No. 20200240-WS, *In re: Proposed amended of Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges.*

Issue 2: What is the appropriate net book value for the CSWR-Sunshine water system for transfer purposes?

Recommendation: For transfer purposes, the net book value (NBV) of the water system is \$248,089 as of May 31, 2021. Within 90 days of the date of the Consummating Order, CSWR-Sunshine 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 CSWR-Sunshine's 2022 Annual Report when filed. (Blocker)

Staff Analysis: Rate base was last established on July 10, 2012, by Order No. PSC-12-0357-PAA-WU.⁸ The purpose of establishing NBV for transfers is to determine whether an acquisition adjustment should be approved. CSWR-Sunshine's request for a positive acquisition adjustment is addressed in Issue 3. 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 May 31, 2021.⁹ Staff's recommended NBV, as described below, is shown on Schedule No. 2.

Utility Plant in Service (UPIS)

According to the Utility's general ledger, the total UPIS balance was \$3,331,335 as of May 31, 2021. Staff auditors reviewed the Utility's records since the last rate case and determined that several Commission-ordered adjustments were incorrectly recorded. Additionally, staff auditors reviewed plant additions and retirements to UPIS from December 31, 2010, to May 31, 2021, and determined that several other adjustments are necessary. Accordingly, staff recommends that the UPIS balance be reduced by \$131,410 as of May 31, 2021.

Land

The Utility's general ledger reflected a land balances of \$80,777 as of May 31, 2021. There have been no additions to land since December 31, 2010. Therefore, staff recommends no adjustments to its land balances.

Accumulated Depreciation

According to the Utility's general ledger, the total accumulated depreciation balance was \$2,686,158 as of May 31, 2021. Staff auditors recalculated depreciation accruals for all water accounts since that last rate case through May 31, 2021, using audited UPIS balances and the depreciation rates established by Rule 25-30.140, F.A.C. Accordingly, staff recommends that the accumulated depreciation balance be increased by \$50,210 as of May 31, 2021.

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

According to the Utility's general ledger, the balances for CIAC and accumulated amortization of CIAC were \$2,036,044, and \$1,574,029, respectively, as of May 31, 2021. Staff auditors traced CIAC and accumulated amortization of CIAC balances from December 31, 2010, to May 31, 2021, using supporting documentation. Staff determined that the Utility did not start with the

⁸ Order No. PSC-12-0357-PAA-WU, issued July 10, 2012, in Docket No. 20100048-WU, *In re: Application for increase in water rates in Marion County by Sunshine Utilities of Central Florida, Inc.*

⁹ Net book value is calculated through the date of the closing. According to the Utility's application, the closing will not occur until after the transaction receives Commission approval. Therefore, staff is relying on the most current information provided to staff auditors at the time of the filing.

Commission-approved balances in Order No. PSC-12-0357-PAA-WU.¹⁰ Staff recalculated CIAC using the audited plant balances and depreciation rates established by Rule 25-30.140(2), F.A.C. Staff also recalculated accumulated amortization of CIAC using the audited CIAC balances and the rates established by Rule 25-30.140(2), F.A.C. Accordingly, staff recommends that the CIAC balance be reduced by \$3,015 as of May 31, 2021. Staff also recommends that the accumulated amortization of CIAC balance be increased by \$162,755 as of May 31, 2021.

Net Book Value

The Utility's general ledger reflected a NBV of \$263,939 as of May 31, 2021. Based on the adjustments described above, staff recommends a NBV of \$248,089 as of May 31, 2021. Staff's recommended NBV and the National Association of Regulatory Utility Commissioners, Uniform System of Accounts (NARUC USOA) balances for UPIS and accumulated depreciation are shown on Schedule No. 2 as of May 31, 2021. As addressed in Issue 3, a positive acquisition adjustment should not be recognized for rate making purposes.

Conclusion

Based on the above, staff recommends a NBV of \$248,089 as of May 31, 2021, for transfer purposes. Within 90 days of the date of the Consummating 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 CSWR-Sunshine's 2022 Annual Report when filed.

¹⁰ Order No. PSC-12-0357-PAA-WU, issued July 10, 2012, in Docket No. 20100048-WU, *In re: Application for increase in water rates in Marion County by Sunshine Utilities of Central Florida, Inc.*

Issue 3: Should a positive acquisition adjustment be recognized for ratemaking purposes?

Recommendation: No. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment should not be granted as CSWR-Sunshine failed to demonstrate extraordinary circumstances. (Blocker, Maloy)

Staff Analysis: In its filing, the Utility requested a positive acquisition adjustment be included in the calculation of CSWR-Sunshine's rate base. An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of acquisition. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment results when the purchase price is greater than the NBV and a negative acquisition adjustment results when the purchase price is less than the NBV. A positive acquisition adjustment, if approved, increases rate base.

According to the purchase agreement, the Buyer will purchase the Utility for \$6,000,000. As discussed in Issue 2, staff is recommending a total NBV of \$248,089. This would result in a total positive acquisition adjustment of \$5,751,911.

Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. Rule 25-30.0371(2), F.A.C., states:

In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, anticipated cost efficiencies, and whether the purchase was made as part of an arms-length transaction.

One of the Buyer's justifications for the purchase price is to ensure sale proceeds are sufficient to cover the fair market value of the Utility's land. While the factors listed in the rule are listed by way of example and other evidence may be offered, the purpose of the rule is to provide incentive for the acquisition of small, troubled systems, the elimination of substandard operating conditions, and allow customers to receive benefits which amount to a better quality of service at a reasonable rate. Order No. PSC-02-0997-FOF-WS, issued July 23, 2002, in Docket No. 20001502-WS, *In re: Proposed Rule 25-30.0371, F.A.C., Acquisition Adjustment*. The items enumerated in the rule are consistent with the promotion of benefits to customers and bringing troubled systems into regulatory compliance; covering the fair market value of land is not.

Staff believes the Buyer failed to demonstrate the extraordinary circumstances necessary to support the inclusion of a positive acquisition adjustment, as discussed below.

Improvements in Quality of Service and Compliance with Regulatory Mandates

In its application, CSWR-Sunshine listed six business practices that it believes will improve the quality of service to its customers: (1) provision of 24-hour emergency service phone numbers; (2) on-call emergency service personnel who are required to respond to emergency service calls within prescribed time limits; (3) a computerized maintenance management system; (4) access to resources not usually available to comparably sized systems and the ability to supplement local

personnel with resources owned by the parent and sister companies; (5) online bill payment options; and (6) an updated website for customer communication, bulletins, procedures, etc. In response to staff's data requests, CSWR-Sunshine provided a list of several improvements it plans to make after its acquisition which it believes will improve both quality of service and compliance with regulatory mandates relating to the Utility's chemical storage, electrical system, ground well, as well as the installation of new flow meters on wells, blow off valves in distribution systems, and remote monitoring system.¹¹

Staff reviewed the complaints filed with the Commission for the five-year period prior to the application, May 2016 to May 2021. For the five-year period, the Commission recorded a total of 13 complaints, out of its approximately 3,934 customers, of which pertaining to billing (7 complaints), communication with customers (3 complaint), outages caused by electrical issues (2 complaints), or safety issues (1 complaint). Of the 3 communication-related customer complaints, 2 were regarding the timing of a boil water notice and the third was regarding a situation where the utility was digging in the right-of-way near the customer's residence, and the customer was not provided advanced notice of the digging. In response, the Utility provided its contact information to these customers to improve future communications. There were 2 customer complaints attributable to incoming power fluctuations which caused outages; the Utility installed adjustable voltage controls in the pumps to remedy the unstable electricity. Further, in the analyzed period, 1 customer reported a safety concern with a plastic water meter cover that was damaged from vehicle traffic and the Utility replaced it with a concrete cover and installed a pole in front of the meter box to resolve this issue. Based on the foregoing analysis, the Utility appears to respond and resolve customer complaints in a timely manner. As discussed in Issue 1, the Utility is currently in compliance with the DEP's rules and regulations. Staff also reviewed the DEP inspection reports for the three years prior to the Utility's transfer application and found that the Utility was also in compliance during that time frame. If an area of concern was identified by the DEP, it was corrected promptly by SUCF. There was no record of DEP compliance enforcement action within the past three years and there appears to be no pending regulatory requirements from any governmental authority, with the exception of the recently issued DEP Warning Letter regarding a monitoring violation, as discussed previously in Issue 1.

Based on the Commission's complaint data and the DEP's reports, it does not appear that the Utility currently has issues with respect to quality of service and regulatory compliance, such that they would warrant extraordinary efforts to remedy. For this reason, staff does not believe CSWR-Sunshine has demonstrated extraordinary circumstances for its requested positive acquisition adjustment. Instead, staff believes that the proposed anticipated improvements in quality of service and compliance with regulatory mandates demonstrates CSWR-Sunshine's intention to responsibly execute its obligations as a utility owner. While staff does not believe the Utility's anticipated improvements justify its requested positive acquisition adjustment, these improvements may be considered for prudence and cost recovery in a future rate proceeding.

Anticipated Cost Efficiencies and Rates

¹¹ Document Nos. 11931-2021 and 12743-2021.

In its application, the Buyer stated that based on its size and anticipated consolidation of many small systems under one financial and managerial entity would result in operational cost efficiencies particularly in the areas of:

- PSC and environmental regulatory reporting
- Managerial and operational oversight
- Utility asset planning
- Engineering planning
- Ongoing utility maintenance
- Utility record keeping
- Customer service responsiveness
- Improved access to capital necessary to repair and upgrade Sunshine's systems to ensure compliance with all health and environmental requirements and ensure service to customers remains safe and reliable

The Buyer also stated that CSWR-Sunshine would bring long-term rate stability to the Utility, should the transfer be approved. Staff agrees that economies of scale and potential consolidation of several systems in Florida, as proposed by CSWR-Sunshine, could bring some amount of long-term rate stability. However, absent specific and detailed support for these assertions, the Buyer has failed to meet its burden for demonstrating extraordinary circumstances. Instead, much of the information provided by the Buyer lacks specificity and was provided nearly verbatim in each of the other two CSWR-Sunshine transfer dockets.¹²

Staff and OPC made several requests for quantifiable information to support the Buyer's assertions, such as anticipated rate impact and potential/projected cost efficiencies. The Buyer repeatedly stated that it was unable to provide quantitative information at the granularity requested by staff. However, staff does not believe its requests were unreasonable given that the burden of proof lies with the Buyer. This is particularly true in the instant case when the requested relief is a positive acquisition adjustment of \$5,751,911, which is approximately 23 times greater than the system's current NBV of \$248,089. Further, in response to staff's first data request for an estimate and breakdown of projected operation and maintenance (O&M) expenses, the Buyer stated that the benefit from the increase in economies of scale and other advantages provided by CSWR-Sunshine would not necessarily be reflected in cost savings compared to current Sunshine operations.

Staff's recommendation is also consistent with the Commission's decision in Order No. PSC-2020-0458-PAA-WS.¹³ In that docket, Royal Waterworks, Inc. (RWI) identified estimates of anticipated cost efficiencies, including a reduction in O&M expense and a reduction of cost of

¹² Docket No. 20210093-WS, *In re: Application for transfer of water and wastewater systems of Aquarina Utilities, Inc., Water Certificate No. 517-W, and Wastewater Certificate No. 450-S to CSWR-Florida Utility Operating Company, LLC, in Brevard County*, and Docket No. 20210133-SU, *In re: Application for transfer of water facilities of North Peninsula Utilities Corporation and Wastewater Certificate No. 249-S to CSWR-Florida Utility Operating Company, LLC, in Volusia County*.

¹³ Order No. PSC-2020-0458-PAA-WS, issued November, 23, 2020, in Docket No. 20190170-WS, *In re: Application for transfer of facilities and Certificate Nos. 259-W and 199-S in Broward County from Royal Utility Company to Royal Waterworks, Inc.*

capital that would result from the transfer. Additionally, RWI provided several improvements it made to the water treatment plant and wastewater lift station since acquisition to improve the quality of service and compliance with regulatory mandates. While the Commission acknowledged that RWI accomplished cost savings, it did not believe the actions performed demonstrated extraordinary circumstances that would justify approval of a positive acquisition adjustment.¹⁴

Conclusion

Pursuant to Rule 25-30.0371, F.A.C., staff believes a positive acquisition adjustment should not be granted, as CSWR-Sunshine did not demonstrate extraordinary circumstances. Staff believes the Buyer's anticipated improvements in quality of service and compliance with regulatory mandates does not illustrate extraordinary circumstances and instead demonstrates CSWR-Sunshine's intentions to responsibly execute its obligations as a utility owner. Additionally, the fair market value of the Utility's land is not a factor considered in the request of a positive acquisition adjustment pursuant to Rule 25-30.0371(2), F.A.C.

¹⁴ Although decided prior to the adoption of the acquisition adjustment rule in 2010, the Commission has previously denied a requested positive acquisition adjustment, stating that the utility relied primarily upon the improvement of service as a basis for a positive acquisition adjustment; however, "compliance with wastewater treatment standards is a requirement of statute and rule, and not an extraordinary circumstance which would warrant the allowance of a positive acquisition adjustment." Order No. 13578, issued August 9, 1984, in Docket No. 19830568-SU, *In re: Application of P.I. Utilities Co., Inc., for a Certificate to Operate a Sewer Utility in Volusia County, Florida, and Petition of Peninsula Utilities, Inc., to Substitute Applicant.*

Issue 4: Should this docket be closed?

Recommendation: Yes. 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, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, that the Buyer has submitted the executed and recorded warranty deed and that the Buyer has submitted copies of its applications for permit transfers to the DEP and the SJRWMD, within 60 days of the Commission's Order approving the transfer, which is final agency action. (Lherisson)

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, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, that the Buyer has submitted the executed and recorded warranty deed and that the Buyer has submitted copies of its applications for permit transfers to the DEP and the SJRWMD, within 60 days of the Commission's Order approving the transfer, which is final agency action.

In re: Application for transfer of water facilities of Sunshine Utilities of Central Florida, Inc. and Water Certificate No. 363-W to CSWR-Florida Utility Operating Company, LLC, in Marion County.

Revised Exh. E. Legal Description

DESCRIPTION OF TERRITORY SERVED

TOWNSHIP 14 SOUTH RANGE 22 EAST
SECTION 21

SUTTON'S DUPLEXES:

THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4
AND
THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 21.

SECTION 27
ELEVEN OAKS SUBDIVISION:

THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 27.

SECTION 33
EMIL MARR:

THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 33.

FLOYD CLARK SUBDIVISION:

THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 33, AND THE WEST 3/4 OF THE SOUTH 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 33, EXCEPT THE EAST 200.00 FEET OF THE WEST 475.00 FEET, THE NORTH 50.00 FEET, AND THE SOUTH 25.00 FEET THEREOF.

HARVILLE HEIGHTS:

THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 33.

SECTION 32
NORTHWOODS

THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 32.

TOWNSHIP 14 SOUTH RANGE 22 EAST
SECTION 34

PEARL BRITAIN:

THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 34.

STONEHILL SUBDIVISION:

THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4, AND THE WEST 1 / 2 OF THE SOUTHEAST 2/4 OF THE SOUTHWEST 1/4, AND THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 34.

BOULDER HILL:

THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND THE SOUTHWEST 1/4 OF SAID SECTION 34.

SECTION 3 TOWNSHIP 15 SOUTH RANGE 22 EAST
BALDWIN HEIGHTS

THE EAST 140.00 FEET OF THE WEST 465.00 FEET OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 3, EXCEPT THE SOUTH 200.00 FEET THEREOF.

SECTION 4
SUNRAY SUBDIVISION

THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 4.

JASON'S LANDING

THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 4.

SECTION 19
BURK'S QUADRAPLEXES

THE SOUTH 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 19.

SECTION 24
OAKHURST SUBDIVISION

THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 24.

SECTION 10 TOWNSHIP 17 SOUTH RANGE 22 EAST
SUNLIGHT ACRES

THE WEST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 10.

SECTION 15 & 16 TOWNSHIP 17 SOUTH RANGE 23 EAST
LITTLE LAKE WIER:

THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 15 AND THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 15 AND THE WEST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 15 AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 16 AND THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 16 AND THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 15

SECTION 4
LAKE WEIR MOBILE HOME PARK

A PARCEL OF LAND IN THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 4 MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A POINT-OF-BEGINNING AT THE INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF MAUD AVENUE, AS IT IS NOW CONSTRUCTED, AND THE NORTH RIGHT-OF-WAY LINE OF ALTERNATE HIGHWAY 441/27 (ALSO BAY STREET) AS IT IS NOW CONSTRUCTED THEN RUN EASTERLY FOR 375.00 FEET ALONG SAID R-O-W LINE TO A POINT AT THE INTERSECTION OF SAID LINE WITH THE WEST R-O-

W LINE OF BANANA AVENUE AS NOW CONSTRUCTED; THEN NORTHERLY ALONG SAID R-O-W LINE FOR 583.25 FEET TO A POINT AT THE INTERSECTION OF SAID R-O-W LINE AND THE SOUTH R-O-W LINE OF STRAWBERRY STREET AS NOW CONSTRUCTED; THEN WESTERLY ALONG SAID LINE FOR 375.00 FEET TO A POINT AT THE INTERSECTION OF SAID LINE AND R-O-W OF SAID MAUD AVENUE, THEN SOUTHERLY ALONG SAID LINE FOR 583.25 FEET TO THE POINT-OF-BEGINNING.

SECTIONS 4, 5, 6, AND 9
OKLAWAHA

THE NORTH 1/2 OF SECTION 9
AND
THE SOUTH 1/2 AND THE NORTHWEST 1/4 OF SAID SECTION 4
AND
ALL OF SECTION 5 NORTH OF LAKE WEIR
AND
THE EAST 1/2 THE NORTHEAST 1/4 OF SAID SECTION 6 NORTH OF LAKE WEIR
AND
THE EAST 1/4 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 6

ALSO IN TOWNSHIP 16 SOUTH, RANGE 24 EAST

SECTION 32
OKLAWAHA

THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 32.

SECTION 32, TOWNSHIP 16 SOUTH, RANGE 23 EAST
BELLEVUE OAKS I & II

THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 32.
AND
THE WEST 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 LYING SOUTH OF U.S. HIGHWAY 441 ALTERNATE, EXCEPT THE WEST 210 FEET AND THE WEST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 AND THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 EXCEPT THAT PART OF COUNTY ROAD 25A.

ORDER NO. PSC-00-1062-FOF-WU

TOWNSHIP 14 SOUTH, RANGE 21 EAST, SECTION 25
TOWNSHIP 14 SOUTH, RANGE 21 EAST, SECTION 36

OAKHAVEN AND EVANS ACRES

THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25 AND THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 36 AND THE EAST 1/3 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 36 AND THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 36 AND COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SECTION 36; THENCE SOUTH 89°10'00" WEST ALONG THE NORTH BOUNDARY OF SAID SE 1/4 A DISTANCE OF 2,014.05 FEET; THENCE SOUTH 00°38'35" EAST 25.00 FEET TO A POINT ON THE WESTERLY ROW LINE OF NW 20TH AVE. (GARDNER AVE 50.00 FEET WIDE) AND THE POINT OF BEGINNING; THENCE SOUTH 00°38'35" EAST ALONG SAID WESTERLY ROW LINE 152.96 FEET TO A POINT ON THE SOUTH BOUNDARY OF LOT 1 BLOCK A OF AHOME ACRES®; SAID POINT ALSO BEING ON THE NORTH BOUNDARY OF LOT 2, BLOCK A OF SAID AHOME ACRES®; THENCE SOUTH 89°09'01" WEST ALONG SAID SOUTH BOUNDARY OF LOT 1 AND ALONG SAID NORTH BOUNDARY OF LOT 2, 611.86 FEET TO A POINT ON THE WEST BOUNDARY OF SAID AHOME ACRES®; THENCE NORTH 00°13'06" WEST ALONG SAID WEST BOUNDARY 153.14 FEET TO A POINT ON THE SOUTH ROW LINE OF NW 42 STREET (BLOWERS LANE 50.00 FEET WIDE) THENCE NORTH 89°10'00" EAST ALONG SAID SOUTH ROW LINE 610.73 FEET TO THE POINT OF BEGINNING.

SECTION 34 TOWNSHIP 14 SOUTH RANGE 22 EAST
SUGAR PLUM ESTATES

THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 34.
AND
THE NORTH 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 34.
AND
THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 34.
AND
THE EAST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 34.
AND
THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 34.
AND
THE EAST 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 34.
LESS
THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4, AND THE NORTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 34.

SECTION 29 TOWNSHIP 14 SOUTH RANGE 22 EAST
FORE OAKS

A PORTION OF THE WEST 1/2 OF THE SW 1/4 OF SAID SECTION 29, BEING MORE FULLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 29; THENCE NORTH ALONG THE WEST BOUNDARY OF SAID SECTION 29, 232.71 FEET; TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH ALONG SAID WEST BOUNDARY 681.75 FEET; THENCE EAST 85.00 FEET; THENCE NORTH 715.20 FEET; THENCE EAST 563.25 FEET; THENCE NORTH 04°40'02" EAST, 202.61 FEET; THENCE WEST 689.83 FEET TO THE EAST BOUNDARY OF THE WEST 1/2 OF THE SW 1/4 OF SAID SECTION 29; THENCE SOUTH 00°02'38" EAST ALONG SAID EAST BOUNDARY, 1313.09 FEET; THENCE SOUTH 89°51'15" WEST, 300.00 FEET; THENCE SOUTH 00°02'38" EAST, 435.60 FEET TO THE NORTH RIGHT-OF-WAY OF COUNTY ROAD #3.0 (NE 49TH STREET); THENCE SOUTH 89°51'35" WEST ALONG SAID NORTH RIGHT-OF-WAY, 496.60 FEET; THENCE NORTH 420.00 FEET; THENCE SOUTH 89°51'35" WEST, 315.00 FEET; THENCE SOUTH, 211.29 FEET; THENCE SOUTH 89°51'35" WEST 210.00 FEET TO THE POINT OF BEGINNING.

SECTION 31 TOWNSHIP 14 SOUTH RANGE 22 EAST
BALLARD ACRES

THE NORTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 31.

SECTION 29 TOWNSHIP 14 SOUTH RANGE 22 EAST
COVENTRY

THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 29.

SECTION 29 TOWNSHIP 14 SOUTH RANGE 22 EAST
ASHLEY HEIGHTS

THE WEST 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 29.

SECTION 18 TOWNSHIP 15 SOUTH RANGE 23 EAST
OCALA HEIGHTS

THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 18 EXCEPT THE EAST 688 FEET OF THE NORTH, 813 FEET OF SAID SECTION 18.

SILVERWOOD VILLAS

THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 18.

SPANISH PALMS AND COUNTRY AIRE

THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 18.

SECTION 17 TOWNSHIP 15 SOUTH RANGE 23 EAST
REYNOLDS

THE WEST 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 17.

SECTION 6 TOWNSHIP 15 SOUTH RANGE 25 EAST
WINDING WATERS

ALL OF SAID SECTION 6.

SECTION 31 TOWNSHIP 15 SOUTH RANGE 25 EAST
WINDING WATERS

ALL OF SAID SECTION 31.

SECTION 36 TOWNSHIP 15 SOUTH RANGE 25 EAST

THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 31.

SECTION 25 TOWNSHIP 15 SOUTH RANGE 22 EAST
WHISPERING SANDS

THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 EXCEPT THE AREA NORTH OF SOUTHEAST 28TH STREET AND THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 25.

SECTION 6 TOWNSHIP 16 SOUTH RANGE 23 EAST
FLORIDA HEIGHTS

THE NORTHEAST 1/4 OF THE NORTH EAST 1/4 OF SAID SECTION 6.

AMENDMENT

SECTION 3 TOWNSHIP 15 SOUTH RANGE 22 EAST
CAROL ESTATES

THAT PORTION OF THE NORTH 654.00 FEET OF THE WEST 1717.00 FEET LYING EAST OF NORTHEAST 25TH AVENUE,
AND

THE SOUTH 804 FEET OF THE NORTH 1457 FEET OF THE WEST 1917 FEET LYING EAST OF THE
NORTHEAST 25TH AVENUE,
AND
THE NORTH 330 FEET OF THE EAST 1524 FEET OF THE WEST 3772 FEET,
AND
THE SOUTH 1124 FEET OF THE NORTH 1454 FEET OF THE EAST 1863 FEET OF THE WEST 3781 FEET
OF SAID SECTION 3.

SECTION 6 TOWNSHIP 17 SOUTH RANGE 23 EAST
COUNTRY WALK

THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 6.

SECTION 2 TOWNSHIP 17 SOUTH RANGE 23 EAST
HILLTOP

THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 2.

SECTION 29, 30, 31 AND 32
TOWNSHIP 17 SOUTH, RANGE 26 EAST
SANDY ACRES

THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29.
THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 29.
THE SOUTHEAST 1/4 OF SECTION 30.
THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 31.
THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 32.

SECTION 25 TOWNSHIP 16 SOUTH RANGE 21 EAST
QUAL RUN

SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 25.

SECTION 2, TOWNSHIP 17 SOUTH, RANGE 23 EAST
HILLTOP SERVICE AREA

THE SOUTHWEST 1/4; THE WEST 1/2 OF THE NORTHWEST 1/4; THE SOUTHEAST 1/4 OF THE THE
NORTHWEST 1/4; THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4.

SECTION 19, TOWNSHIP 15 SOUTH, RANGE 25 EAST
PONDEROSA PINES SERVICE AREA

THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THE SOUTHWEST 1/4 OF THE
SOUTHEAST 1/4 AND THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE
NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE EAST 1/2 OF THE
SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 AND THE EAST 1/2 OF THE
SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4.

SECTIONS 17 & 18, TOWNSHIP 15 SOUTH, RANGE 23 EAST
LEXINGTON ESTATES

PARCEL 1:
THE NW 1/4 OF THE SW 1/4 OF SECTION 17, TOWNSHIP 15 SOUTH, RANGE 23 EAST, MARION COUNTY,
FLORIDA, LESS AND EXCEPT THE SOUTH 786 FEET OF THE WEST 40 FEET THEREOF.

PARCEL 2:

THE EASTERLY 634 FEET OF THE SOUTHERLY 350 FEET OF THE NE 1/4 OF SECTION 18, TOWNSHIP 15 SOUTH, RANGE 23 EAST AND THE EASTERLY 634 FEET OF THE NORTHERLY 534 FEET OF THE SE 1/4 OF SECTION 18, TOWNSHIP 15 SOUTH, RANGE 23 EAST, MARION COUNTY, FLORIDA.

SECTION 29 TOWNSHIP 17S RANGE 26E
SANDY ACRES SUBDIVISION

THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29
THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29
THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29

FLORIDA PUBLIC SERVICE COMMISSION
authorizes
CSWR- Florida Utility Operating Company, LLC
pursuant to
Certificate Number 363-W

to provide water service in Marion 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>
11138	09/03/82	19810386-W (MC)	Grandfather
11680	03/07/83	19810423-W, 19810363-W, 19820409-W, 19820408-W, 19820367-W	Transfer/Amendment
14206	03/21/85	19840087-WU	Amendment
14978	09/20/85	19840089-WU	Amendment
15296	10/25/85	19850280-WU	Amendment
17161	02/06/87	19861526-WU	Amendment
17733	06/22/87	19870181-WU	Transfer/ Amendment
18081	09/01/87	19860724-WU	Amendment
20707	02/06/89	19880907-WU	Transfer
22239	11/29/89	19891177-WU	Name Change
PSC-98-0385-FOF-WU	03/11/98	19971297-WU	Amendment
PSC-99-2390-FOF -WU	12/07/99	19980543-WU	Amendment
PSC-00-1 062-FOF-WU	06/02/00	19991681-WU	Amendment
PSC-02-1832-PAA-WU	12/20/02	20011632-WU	Amendment
PSC-02-1292-PAA-WU	09/23/02	20020256-WU	Transfer/ Amendment
PSC-03-0244-FOF-WU	02/20/03	20021034-WU	Amendment
PSC-03-1099-FOF-WU	10/02/03	20030128-WU	Amendment
PSC-03-1333-PAA-WU	11/24/03	20030340-WU	Transfer/Amendment
PSC-04-1032-FOF-WU	10/25/04	20040388-WU	Amendment
PSC-06-0478-FOF-WU	06/05/06	20060283-WU	Amendment
PSC-1 0-0557-FOF-WU	09/07/10	20100156-WU	Amendment
PSC-1 0-0679-FOF-WU	11/15/10	20100377-WU	Transfer/Amendment
*	*	20210095-WU	Transfer

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

**CSWR- Florida Utility Operating Company, LLC
(Sunshine Utilities of Central Florida, Inc.)
Monthly Water Rates**

Residential and General Service

Unified Systems and Sandy Acres

Base Facility Charge by Meter Size

5/8" x 3/4"	\$8.72
3/4"	\$13.08
1"	\$21.80
1 1/4"	\$32.70
1 1/2"	\$43.60
2"	\$69.76
3"	\$139.52
4"	\$218.00
6"	\$436.00
8"	\$784.80
10"	\$1,264.40

Charge Per 1,000 gallons (RS1)	\$2.03
0 – 5,000 gallons	\$2.21
5,001 – 10,000 gallons	\$4.42
Over 10,000 gallons	

Charge Per 1,000 gallons (GS1)	\$2.42
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Residential and General Service

Ponderosa Pines and Quail Run

Base Facility Charge by Meter Size

5/8" x 3/4"	\$9.57
3/4"	\$14.36
1"	\$23.93
1 1/4"	\$35.89
1 1/2"	\$47.85
3"	\$153.12
4"	\$239.25
6"	\$478.50
8"	\$861.30
10"	\$1,387.65

Charge Per 1,000 gallons (GS2 & RS2)	\$2.53
--------------------------------------	--------

**CSWR- Florida Utility Operating Company, LLC
(Sunshine Utilities of Central Florida, Inc.)**

Service Availability Charges

Meter Installation Charge

5/8" x 3/4"	\$115.00
1"	\$195.00
1 1/2"	\$530.00
2"	\$700.00
3"	\$1,030.00
4"	\$2,035.00
6"	\$3,560.00

Customer Connection (Tap-in) Charge

Same Side of Road	\$750.00
Opposite Side of Road	\$1,115.00

Customer Deposits

All Meter Sizes	<u>Residential Service</u>	<u>General Service</u>
	2 x Average estimated bill	2 x Average estimated bill

**CSWR- Florida Utility Operating Company, LLC
(Sunshine Utilities of Central Florida, Inc.)**

Miscellaneous Service Charges

	<u>Normal Hours</u>	<u>After Hours</u>
Initial Connection Charge	\$21.00	\$42.00
Normal Reconnection Charge	\$21.00	\$42.00
Violation Reconnection Charge	\$21.00	\$42.00
Premises Visit Charge	\$21.00	\$42.00
(in lieu of disconnection)		
Late Payment Charge		\$5.00
Investigation of Meter Tampering Charge	\$50.00	\$50.00

**Staff Recommended
Miscellaneous Service Charges**

	<u>Normal Hours</u>	<u>After Hours</u>
Premises Visit Charge	\$21.00	\$42.00
Violation Reconnection Charge	\$21.00	\$42.00
Late Payment Charge		\$5.00
Investigation of Meter Tampering Charge	\$50.00	\$50.00

**CSWR-Florida Utility Operating Company, LLC
(Sunshine Utilities of Central Florida, Inc.)
Water System**

Schedule of Net Book Value as of May 31, 2021

<u>Description</u>	<u>Balance Per Utility</u>	<u>Adjustments</u>		<u>Staff</u>
Utility Plant in Service	\$3,331,335	(\$131,410)	A	\$3,199,925
Land & Land Rights	80,777	-		80,777
Accumulated Depreciation	(2,686,158)	(50,210)	B	(2,736,368)
CIAC	(2,036,044)	3,015	C	(2,033,029)
Accumulated Amortization of CIAC	<u>1,574,029</u>	<u>162,755</u>	D	<u>1,736,784</u>
Total	<u>\$263,939</u>	<u>(\$15,850)</u>		<u>\$248,089</u>

**CSWR-Florida Utility Operating Company, LLC
(Sunshine Utilities of Central Florida, Inc.)
Water System**

Explanation of Adjustments to Net Book Value as of May 31, 2021

Explanation	Amount
A. Utility Plant in Service To reflect the appropriate amount of UPIS.	(\$131,410)
B. Accumulated Depreciation To reflect the appropriate amount of accumulated depreciation.	(50,210)
C. Contributions in Aid of Construction To reflect the appropriate amount of CIAC.	3,015
D. Accumulated Amortization of CIAC To reflect the appropriate amount of accumulated amortization of CIAC.	<u>162,755</u>
Total Adjustments to Net Book Value as of May 31, 2021	<u>(\$15,850)</u>

**CSWR-Florida Utility Operating Company, LLC
(Sunshine Utilities of Central Florida, Inc.)
Water System**

Schedule of Staff's Recommended Account Balances as of May 31, 2021

Account No.	Description	UPIS	Accumulated Depreciation
301	Organization	\$1,660	\$1,521
304	Structures & Improvements	11,434	4,842
307	Wells & Springs	120,006	108,291
309	Supply Mains	110,236	47,589
310	Power Generation Equip.	92,882	67,840
311	Pumping Equip.	539,881	515,322
320	Water Treatment Equip.	204,274	200,216
330	Distribution Reservoirs	120,373	41,750
331	Transmission and Distribution Mains	1,083,369	1,011,498
333	Services	149,227	58,233
334	Meters and Meter Install.	235,187	181,711
339	Other Plant And Misc.	25,858	25,858
340	Office Furniture & Equip.	79,087	52,925
341	Trans. Equip.	113,594	113,562
342	Stores Equip.	4,425	3,815
343	Tools, Shop and Garage Equip.	39,491	32,454
345	Power Operated Equip.	5,200	5,200
346	Communication Equip.	10,912	10,912
347	Misc. Equip.	17,436	17,436
348	Other Tangible Plant	<u>235,393</u>	<u>235,393</u>
	Total	<u>\$3,199,925</u>	<u>\$2,736,368</u>

Item 7

FILED 2/17/2022
DOCUMENT NO. 01276-2022
FPSC - COMMISSION CLERK

State of Florida



Public Service Commission

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

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

DATE: February 17, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (M. Watts, Ramos) *TB*
Division of Accounting and Finance (Thurmond, Fletcher) *ALM*
Division of Economics (Bruce, Hudson) *JGH*
Office of the General Counsel (Sandy, J. Crawford) *JSC*

RE: Docket No. 20210133-SU – Application for transfer of facilities of North Peninsula Utilities Corporation and wastewater Certificate No. 249-S to CSWR-Florida Utility Operating Company, LLC, in Volusia County.

AGENDA: 03/01/22 – Regular Agenda – Proposed Agency Action for Issues 2 and 3 - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Please place item on Agenda immediately after Docket No. 20210095-WU.

Case Background

North Peninsula Utilities Corporation (NPUC, Utility, or Seller) is a Class B wastewater utility operating in Volusia County since 1977.¹ NPUC provides wastewater service to approximately 602 customers. The City of Ormond Beach provides water service to the area. In its 2020 Annual

¹ Order No. 8116, issued December 22, 1977, in Docket No. 19770595-S, *In Re: Application of Shore Utility Corporation for a Certificate to Operate a Sewer Utility in Volusia County, Florida. Section 367.041, Florida Statutes.*

Report, NPUC reported operating revenues of \$284,221. The Utility's last staff assisted rate case was in 2019.²

In 1977, the Florida Public Service Commission (Commission) granted the Utility original wastewater Certificate No. 249-S.³ Since its certification, the Utility has experienced a transfer and seven territory amendments.⁴

On August 9, 2021, CSWR-Florida Utility Operating Company, LLC (CSWR-North Peninsula or Buyer) filed an application with the Commission for the transfer of Certificate No. 249-S from NPUC to CSWR-North Peninsula in Volusia County. The sale will close after the Commission has voted to approve the transfer. In its application, the Buyer has requested a positive acquisition adjustment, which is discussed in Issue 3.

Intervention by the Office of Public Counsel (OPC) was acknowledged on August 23, 2021. OPC and staff have issued a number of discovery or data requests to CSWR-North Peninsula in this docket.

This recommendation addresses the transfer of the wastewater system and Certificate 249-S, the appropriate net book value of the wastewater system for transfer purposes, and the request for an acquisition adjustment. The Commission has jurisdiction pursuant to Sections 367.071 and 367.081, Florida Statutes (F.S.).

² Order No. PSC-2019-0461-PAA-SU, issued October 25, 2019, in Docket No. 20180138-SU, *In re: Application for staff-assisted rate case in Volusia County by North Peninsula Utilities Corporation.*

³ Order No. 8116, issued December 22, 1977, in Docket No. 19770595-S, *In Re: Application of Shore Utility Corporation for a Certificate to Operate a Sewer Utility in Volusia County, Florida. Section 367.041, Florida Statutes.*

⁴ Order No. 9365, issued May 9, 1980, in Docket No. 19800320-S, *In re: Application of Shore Utility Corporation to amend Certificate No. 249-S to operate a sewer utility in Volusia County, Florida*; Order No. 22345, issued December 27, 1989, in Docket No. 19891016-SU, *In re: Application of North Peninsula Utilities Corporation for transfer of Certificate No. 249-S from Shore Utility Corporation in Volusia County*; Order No. 24272, issued March 21, 1991, in Docket No. 19900659-SU, *In re: Application for amendment of Certificate No. 249-S in Volusia County by North Peninsula Utilities Corporation*; Order No. PSC-96-0262-FOF-SU, issued February 23, 1996, in Docket No. 19951373-SU, *In re: Application for amendment of Certificate No. 249-S in Volusia County by North Peninsula Utilities Corporation*; Order No. PSC-05-0426-FOF-SU, issued April 20, 2005, in Docket No. 20041301-SU, *In re: Application for amendment of Certificate No. 249-S in Volusia County by North Peninsula Utilities Corporation*; Order No. PSC-09-0420-FOF-SU, issued June 15, 2009, and Order No. PSC-09-0420A-TRF-SU, issued July 21, 2009, in Docket No. 20090040-SU, *In re: Application for amendment of Certificate No. 249-S to extend territory in Volusia County by North Peninsula Utilities Corp. and a request for approval of a new class of service for a general service wastewater customer in Volusia County*; Order No. PSC-10-0613-FOF-SU, issued October 11, 2010, in Docket No. 20100317-SU, *In re: Application for amendment of Certificate No. 249-S to extend territory in Volusia County by North Peninsula Utilities Corp.*; and Order No. PSC-16-0522-PAA-SU, issued November 21, 2016, in Docket No. 20130209-SU, *In re: Application for expansion of certificate (CIAC) (new wastewater line extension charge) by North Peninsula Utilities Corp.* Note: Docket No. 20140050-SU was opened following the receipt of an application for amendment of Certificate No. 249-S by NPUC. However, the filing was intended to amend an application previously filed (Docket No. 20130209-SU), so the application was moved from Docket No. 20140050-SU to 20130209-SU. However, the docket title for Docket No. 20130209-SU was never updated to reflect the inclusion of the application for amendment.

Discussion of Issues

Issue 1: Should the transfer of Certificate No 249-S in Volusia County from North Peninsula Utilities Corporation to CSWR-Florida Utility Operating Company, LLC be approved?

Recommendation: Yes. The transfer of the wastewater system and Certificate No. 249-S is in the public interest and should be approved effective the date that the sale becomes final. The resultant Order should serve as the Buyer's certificate and should be retained by the Buyer. The Buyer should submit the executed and recorded deed for continued access to the land upon which its facilities are located and copies of its permit transfer application to the Commission within 60 days of the Order approving the transfer, which is final agency action. If the sale is not finalized within 60 days of the transfer Order, the Buyer should file a status update in the docket file. The Utility's existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code, (F.A.C.). The Seller is current with respect to annual reports and regulatory assessment fees (RAFs) through December 31, 2020. The Seller should be responsible for filing annual reports and paying RAFs for 2021, and the Buyer should be responsible for filing the annual reports and paying RAFs for all future years. (M. Watts, Thurmond, Bruce)

Staff Analysis: On August 9, 2021, CSWR-North Peninsula filed an application for the transfer of Certificate No. 249-S from NPUC to CSWR-North Peninsula in Volusia County. The application is in compliance with Section 367.071, F.S., and Commission rules concerning applications for transfer of certificates. The sale to CSWR-North Peninsula will become final after Commission approval of the transfer, pursuant to Section 367.071(1), F.S.

Noticing, Territory, and Land Ownership

CSWR-North Peninsula provided notice of the application pursuant to Section 367.071, F.S., and Rule 25-30.030, F.A.C. No objections to the transfer were filed, and the time for doing so has expired. The application contains a description of the service territory which is appended to this recommendation as Attachment A. In its response to staff's August 9, 2021 deficiency letter, CSWR-North Peninsula provided a copy of an unrecorded warranty deed as evidence that the Buyer will have rights to long-term use of the land upon which the treatment facilities are located pursuant to Rule 25-30.037(2)(s), F.A.C. CSWR-North Peninsula should submit the executed and recorded deed to the Commission within 60 days of the Order.

Purchase Agreement and Financing

Pursuant to Rule 25-30.037(2)(g), (h), and (i), F.A.C., the application contains a statement regarding financing and a copy of the purchase agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. There are no guaranteed revenue contracts, or customer advances of NPUC that must be disposed of with regard to the transfer. CSWR-North Peninsula will review all leases and developer agreements and will assume or renegotiate those agreements on a case-by-case basis prior to closing. Any customer deposits will be refunded to customers by the Seller prior to the closing. According to the purchase and sale agreement, the total purchase price for the assets is \$1,400,000. According to the Buyer, the

closing has not yet taken place and is dependent on Commission approval of the transfer, pursuant to Section 367.071(1), F.S.

Facility Description and Compliance

NPUC's domestic wastewater treatment plant (WWTP) consists of one 60,000 gallons per day (gpd) steel extended aeration plant, one 60,000 gpd concrete contact stabilization plant, and one 90,000 gpd steel extended aeration plant. The treated water is discharged into a reuse system consisting of two rapid infiltration basins with a total combined capacity of 181,000 gpd, the permitted capacity of the WWTP. CSWR-North Peninsula provided a copy of the Utility's current permit from the Florida Department of Environmental Protection (DEP) pursuant to Rule 25-30.037(2)(r)1, F.A.C. The Buyer should provide a copy of its permit transfer application, reflecting the change in ownership, to the Commission within 60 days of the Order.

Staff reviewed the most recent DEP compliance evaluation inspections (CEI) for the WWTP. The DEP's March 7, 2017 CEI identified the following issues: current Reduced Pressure Zone certification not on site; reporting and recording errors in multiple Discharge Monitoring Reports; current flow meter calibration not on site; fence around ponds in disrepair; and, repeated fecal coliform exceedances (April-December 2016).

Staff also found that the DEP and the Seller executed a Consent Order⁵ in 2018 (the 2018 CO) to correct several violations. The DEP closed the case on July 14, 2020, but stated that a recent inspection (resulting from a complaint) found additional possible violations that would be addressed in a separate action. On August 17, 2021, the DEP sent NPUC a draft consent order⁶ addressing several violations. As of February 3, 2022, the DEP stated it is still awaiting NPUC's response.⁷ In Exhibit G of the Buyer's application, CSWR-North Peninsula provides its assessment of NPUC's wastewater treatment plant and lists several improvements and repairs it recommends be made to the system. The Buyer's suggested repairs and improvements are discussed further in Issue 3.

Technical and Financial Ability

Pursuant to Rule 25-30.037(2)(l) and (m), F.A.C., the application contains statements describing the technical and financial ability of the Buyer to provide service to the proposed service area. As referenced in the transfer application, the Buyer will fulfill the commitments, obligations, and representations of the Seller with regards to utility matters. CSWR-North Peninsula's application states that it owns and operates more than 257 water/wastewater systems in Missouri, Arkansas, Kentucky, Louisiana, Texas, and Tennessee that currently serve more than 48,860 water and 77,595 wastewater customers. The Buyer plans to use qualified and licensed contractors to provide routine operation and maintenance of the systems, as well as to handle billing and customer service. Staff reviewed the financial statements of CSWR-North Peninsula and believes the Buyer has documented adequate resources to support the Utility's wastewater operations. Based on its review, staff recommends that the Buyer has demonstrated the technical and financial ability to provide service to the existing service territory.

⁵ OGC Case No. 18-0258.

⁶ OGC Case No: 20-1313.

⁷ Document No. 01127-2022.

Rates and Charges

The Utility's rates were last approved in a 2019 staff-assisted rate case.⁸ The Commission approved the Utility's late payment charge in 2017.⁹ The Utility's service availability charges were approved in 2016.¹⁰ Since the Utility's last rate case, the rates have been changed by two price index rate increases and one pass-through increase. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by this Commission. Therefore, staff recommends that the Utility's existing rates and charges, as shown on Schedule No. 1 for wastewater, remain in effect until a change is authorized by this Commission in a subsequent proceeding.

Regulatory Assessment Fees and Annual Report

Staff has verified that the Utility is current on the filing of annual reports and RAFs through December 31, 2020. The Seller will be responsible for filing the Utility's annual report and paying RAFs for 2021. The Buyer will be responsible for filing the Utility's annual reports and paying RAFs for all future years.

Conclusion

Based on the foregoing, staff recommends the transfer of the wastewater system and Certificate No. 249-S is in the public interest and should be approved effective the date that the sale becomes final. The resultant Order should serve as the Buyer's certificate and should be retained by the Buyer. The Buyer should submit the executed and recorded deed for continued access to the land upon which its facilities are located and copies of its permit transfer applications to the Commission within 60 days of the Order approving the transfer, which is final agency action. If the sale is not finalized within 60 days of the transfer Order, the Buyer should file a status update in the docket file. The Utility's existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariff pages reflecting the transfer should be effective on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475(1), F.A.C. The Seller is current with respect to annual reports and RAFs through December 31, 2020. The Seller should be responsible for filing annual reports and paying RAFs for 2021, and the Buyer should be responsible for filing the annual reports and paying RAFs for all future years.

⁸ Order PSC-2019-0461-PAA-SU, issued October 25, 2019, in Docket No. 20180138-SU, *In re: Application for staff assisted rate case in Volusia County by North Peninsula Utilities Corporation.*

⁹ Order PSC-2017-0441-PAA-SU, issued November 17, 2017, in Docket No. 20170152-SU, *In re: Request for approval of a late payment charge in Volusia County, by North Peninsula Utilities Corporation.*

¹⁰ Order PSC-16-0522-PAA-SU, issued November 21, 2016, in Docket No. 20130209-SU, *In re: Application for extension of certificate (CIAC) (new wastewater line extension charge) by North Peninsula Utilities Corp.*

Issue 2: What is the appropriate net book value for CSWR-North Peninsula's wastewater system for transfer purposes?

Recommendation: For transfer purposes, the net book value (NBV) of the wastewater system is \$247,528 as of July 31, 2021. Within 90 days of the date of the consummating Order, CSWR-North Peninsula should be required to notify the Commission in writing, that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the Utility's 2022 Annual Report when filed. (Thurmond)

Staff Analysis: Rate base was last established on October 25, 2019, by Order No. PSC-2019-0461-PAA-SU.¹¹ The purpose of establishing NBV for transfers is to determine whether an acquisition adjustment should be approved. CSWR-North Peninsula's request for a positive acquisition adjustment is addressed in Issue 3. 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 July 31, 2021.¹² Staff's recommended NBV, as described below, is shown on Schedule No. 2.

Utility Plant in Service (UPIS)

According to the Utility's general ledger, the total UPIS balance was \$947,621 as of July 31, 2021. Staff reviewed the plant additions and retirements to UPIS from June 30, 2018, to July 31, 2021, and traced supporting documentation. Based on staff's calculations, the Utility UPIS balance as of July 31, 2021, was overstated by \$22,671. Accordingly, staff recommends that the UPIS balance be reduced by \$22,671 as of July 31, 2021.

Land

The Utility's general ledger reflected a land balance of \$46,800 as of July 31, 2021. There have been no additions to land since May 30, 2018. Therefore, staff recommends no adjustments to its land balance.

Accumulated Depreciation

According to the Utility's general ledger, the total accumulated depreciation balance was \$708,509 as of July 31, 2021. Staff auditors recalculated depreciation accruals for all wastewater accounts since the last rate case through July 31, 2021, using audited UPIS balances and the depreciation rates established by Rule 25-30.140, F.A.C. Accordingly, staff recommends that the accumulated depreciation balance be increased by \$15,068 as of July 31, 2021.

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

According to the Utility's general ledger, the CIAC balance and accumulated amortization of CIAC were \$641,756 and \$641,073, respectively, as of July 31, 2021. Staff auditors traced CIAC and accumulated amortization of CIAC balances from June 30, 2018, to July 31, 2021, using

¹¹ Order No. PSC-2019-0461-PAA-SU, issued October 25, 2019, in Docket No. 20180138-SU, *In re: Application for staff-assisted rate case in Volusia County by North Peninsula Utilities Corporation.*

¹² Net book value is calculated through the date of the closing. According to the Utility's application, the closing will not occur until after the transaction receives Commission approval. Therefore, staff is relying on the most current information provided to staff auditors at the time of the filing.

supporting documentation. Accordingly, staff recommends that the CIAC balance be reduced by \$31 as of July 31, 2021. Staff also recommends that the accumulated amortization of CIAC balance be increased by \$7 as of July 31, 2021.

Net Book Value

The Utility's general ledger reflected a NBV of \$286,229 as of July 31, 2021. Based on the adjustments described above, staff recommends a NBV of \$247,528 as of July 31, 2021. Staff's recommended NBV and the National Association of Regulatory Utility Commissioners, Uniform System of Accounts (NARUC USOA) balances for UPIS and accumulated depreciation are shown on Schedule No. 2 as of July 31, 2021. As addressed in Issue 3, a positive acquisition adjustment should not be recognized for rate-making purposes.

Conclusion

Based on the above, staff recommends a NBV of \$247,528 as of July 31, 2021, for transfer purposes. Within 90 days of the date of the consummating Order, the Buyer should be required to notify the Commission in writing that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the Utility's 2022 Annual Report when filed.

Issue 3: Should a positive acquisition adjustment be recognized for ratemaking purposes?

Recommendation: No. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment should not be granted as the Buyer failed to demonstrate extraordinary circumstances. (Thurmond, M. Watts)

Staff Analysis: In its filing, the Buyer requested a positive acquisition adjustment be included in the calculation of CSWR-North Peninsula's rate base. An acquisition adjustment results when the purchase price differs from the NBV of the assets at the time of acquisition. Pursuant to Rule 25-30.0371, F.A.C., a positive acquisition adjustment results when the purchase price is greater than the NBV and a negative acquisition adjustment results when the purchase price is less than the NBV. A positive acquisition adjustment, if approved, increases rate base.

According to the purchase agreement, the Buyer will purchase the Utility for \$1,400,000. As discussed in Issue 2, staff is recommending a total NBV of \$247,528. This would result in a positive acquisition adjustment of \$1,151,182.

Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. Rule 25-30.0371(2), F.A.C., states:

In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, anticipated cost efficiencies, and whether the purchase was made as part of an arms-length transaction.

One of the Buyer's justifications for the purchase price is to ensure sale proceeds are sufficient to pay off the Seller's long-term debt obligations. While the factors listed in the rule are listed by way of example and other evidence may be offered, the purpose of the rule is to provide incentive for the acquisition of small, troubled systems, the elimination of substandard operating conditions, and allow customers to receive benefits which amount to a better quality of service at a reasonable rate.¹³ The items enumerated in the rule are consistent with the promotion of benefits to customers and bringing troubled systems into regulatory compliance; paying off the Seller's long-term debt obligation is not.

Staff believes the Buyer failed to demonstrate the extraordinary circumstances necessary to support the inclusion of a positive acquisition adjustment, as discussed below.

Improvements in Quality of Service and Compliance with Regulatory Mandates

In its application, CSWR-North Peninsula listed six business practices that it believes will improve the quality of service to its customers: (1) provision of 24-hour emergency service phone numbers; (2) on-call emergency service personnel who are required to respond to

¹³ Order No. PSC-2002-0997-FOF-WS, issued July 23, 2002, in Docket No. 20001502-WS, *In re: Proposed Rule 25-30.0371, F.A.C., Acquisition Adjustment*.

emergency service calls within prescribed time limits; (3) a computerized maintenance management system; (4) access to resources not usually available to comparably sized systems and the ability to supplement local personnel with resources owned by the parent and sister companies; (5) online bill payment options; and (6) an updated website for customer communication, bulletins, procedures, etc.

Staff reviewed the complaints filed with the Commission for the five-year period prior to the application, July 2016 to July 2021. The Commission recorded a total of four complaints pertaining to billing (1 complaint), noise (1 complaint), and wastewater flooding the yard (2 complaints from the same customer, one each in 2017 and 2019). In its application, CSWR-North Peninsula provided DEP documents concerning five odor and/or noise complaints from February 2016 to April 2021, with one of the complaints also referencing wastewater flooding of customers' yards. Additionally, in its response to staff's first data request,¹⁴ CSWR-North Peninsula stated that the DEP initiated two inspections of NPUC in 2021 due to odor complaints.

In addition to reviewing the Utility's most recent inspection reports, as discussed in Issue 1, staff also reviewed the DEP inspection reports and enforcement actions for the three years prior to the Utility's transfer application. The Utility appears to have ongoing issues with rust and deterioration of the steel components of the plant, proper rapid infiltration basin (RIB) maintenance, adhering to instrument calibration schedules, system component failures, excessive noise and odors beyond the boundaries of the plant, and ensuring the plant operator fulfills the staffing requirements for minimum number of days and hours visited by a certified operator.

The 2018 CO addressed rust and corrosion, repair of specific system components, groundwater monitoring, and sodium sampling. The Utility worked to correct these issues, seeking and receiving approval to recover the cost of pro forma items needed for the repairs in its 2018 rate case before the Commission.¹⁵

The draft 2021 Consent Order, issued by the DEP on August 17, 2021, discussed the problem of excessive odor, RIB maintenance, proper staffing, and repair of corrosion and patching of holes in the plants.¹⁶ The DEP also included a requirement for the Utility to have a licensed professional engineer evaluate the overall structural integrity of all steel structures and submit a report to the DEP for review. As noted in Issue 1, the Utility has not been responsive to the DEP as of February 3, 2022.

In Exhibit G of its application, CSWR-North Peninsula noted the issues described above, as well as on-going issues with monitoring wells, and proposed improvements it plans to make to ensure the longevity of the system. These plans include making significant structural steel repairs followed by recoating the facility; repair/replace aeration equipment as needed; remove solids and vegetation from the RIBs to ensure proper drainage; improve tertiary filtration; install remote monitoring; implement proper staffing while pursuing negotiations to reduce site visiting requirements commensurate with the remote monitoring capability.

¹⁴ Document No. 12160-2021, filed October 15, 2021.

¹⁵ Order No. PSC-2019-0461-PAA-SU, issued October 25, 2019, in Docket No. 20180138-SU, *In re: Application for staff-assisted rate case in Volusia County by North Peninsula Utilities Corporation*.

¹⁶ The DEP requested that NPUC sign or respond to the CO within 20 days of receipt.

Based on the above, it appears that NPUC currently has issues with respect to regulatory compliance. While the Buyer identified several improvements it intends to implement in an effort to rectify these points, staff does not believe the Buyer has demonstrated extraordinary circumstances in support of its requested positive acquisition adjustment. Instead, staff believes that the proposed anticipated improvements in quality of service and compliance with regulatory mandates demonstrates CSWR-North Peninsula's intention to responsibly execute its obligations as a utility owner. While staff does not believe the Utility's anticipated improvements justify its requested positive acquisition adjustment, these improvements may be considered for prudence and cost recovery in a future rate proceeding.

Anticipated Cost Efficiencies and Rates

In its application, the Buyer stated that its size and anticipated consolidation of many small systems under one financial and managerial entity would result in operational cost efficiencies particularly in the areas of:

- PSC and environmental regulatory reporting
- Managerial and operational oversight
- Utility asset planning
- Engineering planning
- Ongoing utility maintenance
- Utility record keeping
- Customer service responsiveness
- Improved access to capital necessary to repair and upgrade North Peninsula's systems to ensure compliance with all health and environmental requirements and ensure service to customers remains safe and reliable

The Buyer also stated that CSWR-North Peninsula would bring long term rate stability to the Utility, should the transfer be approved. Staff agrees that economies of scale and potential consolidation of several systems in Florida, as proposed by CSWR-North Peninsula, could bring some amount of long-term rate stability. However, absent specific and detailed support for these assertions, the Buyer has failed to meet its burden for demonstrating extraordinary circumstances. Instead, much of the information provided by the Buyer lacked specificity and was provided nearly verbatim in each of the other two CSWR transfer dockets.¹⁷

Staff and the Office of Public Counsel (OPC) made several requests for quantifiable information to support the Buyer's assertions, such as anticipated rate impact and potential/projected cost efficiencies. The Buyer repeatedly stated that it was unable to provide quantitative information at the granularity requested by staff. However, staff does not believe its requests were unreasonable given that the burden of proof lies with the Buyer. This is particularly true in the instant case when the requested relief is a positive acquisition adjustment of \$1,151,182, which is

¹⁷ Docket No. 20210093-WS, *In re: Application for transfer of water and wastewater systems of Aquarina Utilities, Inc., Water Certificate No. 517-W, and Wastewater Certificate No. 450-S to CSWR-Florida Utility Operating Company, LLC, in Brevard County* and Docket No. 20210095-WU, *In re: Application for transfer of water facilities of Sunshine Utilities of Central Florida, Inc. and Water Certificate No. 363-W to CSWR-Florida Utility Operating Company, LLC, in Marion County*.

approximately five times greater than the system's current NBV of \$247,528. Further, in response to staff's first data request for an estimate and breakdown of projected operating and maintenance (O&M) expenses, the Buyer stated that the benefit from the increase in economies of scale and other advantages provided by CSWR-North Peninsula would not necessarily be reflected in cost savings compared to current NPUC operations.

Staff's recommendation is also consistent with the Commission's decision in Order No. PSC-2020-0458-PAA-WS.¹⁸ In that docket, Royal Waterworks, Inc. (RWI) identified estimates of anticipated cost efficiencies, including a reduction in O&M expense and a reduction of cost of capital that would result from the transfer. Additionally, RWI provided several improvements it made to the water treatment plant and wastewater lift station since acquisition to improve the quality of service and compliance with regulatory mandates. While the Commission acknowledged that RWI accomplished cost savings, it did not believe the actions performed demonstrated extraordinary circumstances that would justify approval of a positive acquisition adjustment.¹⁹

Conclusion

Pursuant to Rule 25-30.0371, F.A.C., staff recommends a positive acquisition adjustment not be granted as the Utility did not demonstrate extraordinary circumstances. Staff believes the Buyer's anticipated improvements in quality of service and compliance with regulatory mandates does not illustrate extraordinary circumstances and instead demonstrates CSWR-North Peninsula's intentions to responsibly execute its obligations as a utility owner. Additionally, paying off the Seller's long-term debt obligation is not a factor considered in the request of a positive acquisition adjustment pursuant to Rule 25-30.0371(2), F.A.C.

¹⁸ Order No. PSC-2020-0458-PAA-WS, issued November, 23, 2020, in Docket No. 20190170-WS, *In re: Application for transfer of facilities and Certificate Nos. 259-W and 199-S in Broward County from Royal Utility Company to Royal Waterworks, Inc.*

¹⁹ Although decided prior to the adoption of the acquisition adjustment rule in 2010, the Commission has previously denied a requested positive acquisition adjustment, stating that the utility relied primarily upon the improvement of service as a basis for a positive acquisition adjustment; however, "compliance with wastewater treatment standards is a requirement of statute and rule, and not an extraordinary circumstance which would warrant the allowance of a positive acquisition adjustment." Order No. 13578, issued August 9, 1984, in Docket No. 19830568-SU, *In re: Application of P.I. Utilities Co., Inc., for a Certificate to Operate a Sewer Utility in Volusia County, Florida, and Petition of Peninsula Utilities, Inc., to Substitute Applicant.*

Issue 4: Should this docket be closed?

Recommendation: Yes. 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, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, that the Buyer has submitted the executed and recorded warranty deed and that the Buyer has submitted a copy of its application for permit transfer to the DEP, within 60 days of the Commission's Order approving the transfer. (Sandy)

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, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, that the Buyer has submitted the executed and recorded warranty deed and that the Buyer has submitted a copy of its application for permit transfer to the DEP, within 60 days of the Commission's Order approving the transfer.

TERRITORY DESCRIPTION
CSWR-Florida Utility Operating Company, LLC
Volusia County
Wastewater Service

LANDS IN SECTIONS 8, 9, 16, 17 AND 21 IN TOWNSHIP 13 SOUTH, RANGE 32 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

1. COMMENCE AT THE CENTERLINE OF OCEAN SHORE BLVD (A1A) 3,640 FEET NORTH OF THE SOUTH LINE OF SECTION 21;
2. THENCE NORTH 88° EAST 73 FEET TO THE SHORELINE OF THE ATLANTIC OCEAN ALONG THE SOUTH LINE OF PARCEL 21132200040010, PER OFFICIAL RECORD BOOK 6826, PAGE 1586;
3. THENCE NORTH 23° WEST ALONG THE SHORELINE OF THE ATLANTIC OCEAN 1,800 FEET TO THE CENTERLINE OF VIA MADRID ROAD ON THE SOUTH LINE OF SECTION 16;
4. THENCE NORTH 88° WEST 93 FEET TO THE CENTERLINE OF OCEAN SHORE BLVD (A1A) ON THE SOUTH LINE OF SECTION 16;
5. THENCE NORTH 23° WEST 1,100 FEET ALONG THE CENTERLINE OF OCEAN SHORE BLVD (A1A);
6. THENCE NORTH 88° EAST 97 FEET TO THE SHORELINE OF THE ATLANTIC OCEAN ALONG THE SOUTH LINE OF PARCEL 16133203000010, PER OFFICIAL RECORD BOOK 4446, PAGE 1762;
7. THENCE NORTH 23° WEST 1,448 FEET ALONG THE SHORELINE OF THE ATLANTIC OCEAN TO THE SOUTHEAST CORNER OF PARCEL 16133200030022, PER OFFICIAL RECORD BOOK 4234, PAGE 4898;
8. THENCE NORTH 88° WEST 125 FEET ALONG THE SOUTH LINE OF PARCEL 16133200030022, PER OFFICIAL RECORD BOOK 4234, PAGE 4898, TO THE CENTERLINE OF OCEAN SHORE BLVD (A1A);
9. THENCE NORTH 23° WEST 2,300 FEET ALONG THE CENTERLINE OF OCEAN SHORE BLVD (A1A);
10. THENCE NORTH 88° EAST 139 FEET ALONG THE SOUTH LINE OF PARCEL 16133201000880, PER OFFICIAL RECORD BOOK 4672, PAGE 0283, TO THE SHORELINE OF THE ATLANTIC OCEAN;

11. THENCE NORTH 23° WEST 1,141 FEET ALONG THE SHORELINE OF THE ATLANTIC OCEAN TO THE SOUTH LINE OF PARCEL 09133201000001, PER OFFICIAL RECORD BOOK 5148, PAGE 1248;
12. THENCE NORTH 88° WEST 139 FEET TO THE CENTERLINE OF OCEAN SHORE BLVD (A1A) LOCATED 430 FEET NORTH OF THE SOUTH LINE OF SECTION 9;
13. THENCE NORTH 23° WEST 1,052 FEET ALONG THE CENTERLINE OF OCEAN SHORE BLVD (A1A);
14. THENCE NORTH 88° EAST 127 FEET ALONG THE SOUTH LINE OF PARCEL 0813320101C580, PER RECORD BOOK 6586, PAGE 2933 TO THE SHORELINE OF THE ATLANTIC OCEAN;
15. THENCE NORTH 23° WEST 332 FEET TO THE NORTHEAST CORNER OF PARCEL 0823320101C580, PER OFFICIAL RECORD BOOK 6586, PAGE 2933;
16. THENCE NORTH 88° WEST 700 FEET ALONG THE NORTH LINE OF KINGSTON SHORES PER MAP BOOK 33, PAGE 67;
17. THENCE NORTH 1° WEST 159 FEET ALONG THE WEST LINE OF PARCEL 09133200010050, OFFICIAL RECORD BOOK 4915, PAGE 2649;
18. THENCE NORTH 89° WEST 342 FEET ALONG THE NORTH LINE OF PARCEL 09133200010050, PER OFFICIAL RECORD BOOK 4915, PAGE 2649;
19. THENCE SOUTH 0° EAST 120 FEET ALONG THE WEST LINE OF PARCEL 09133200010050, PER OFFICIAL RECORD BOOK 4915, PAGE 2649;
20. THENCE SOUTH 90° WEST 141 FEET ALONG THE NORTH LINE OF PARCEL 09133200010050, PER OFFICIAL RECORD BOOK 4915, PAGE 2649;
21. THENCE SOUTH 0° EAST 39 FEET ALONG THE WEST LINE OF PARCEL 09133200010050, PER OFFICIAL RECORD BOOK 4915, PAGE 2649;
22. THENCE NORTH 90° WEST 275 FEET ALONG THE NORTH LINE OF PARCEL 0823320101C580, PER OFFICIAL RECORD BOOK 6586, PAGE 2933;
23. THENCE NORTH 90° WEST 162 FEET ALONG THE NORTH LINE OF PARCEL 08133200050010, PER OFFICIAL RECORD BOOK 6528, PAGE 2046;
24. THENCE SOUTH 23° EAST 2,505 FEET ALONG THE EAST EDGE OF HALIFAX CREEK TO THE NORTH LINE OF PARCEL 17133200010080, PER OFFICIAL RECORD BOOK 1917, PAGE 0953, AND THE NORTH LINE OF PARCEL 16133200010030, PER OFFICIAL RECORD BOOK 2049, PAGE 1087;

25. THENCE NORTH 90° EAST 153 FEET TO THE CENTERLINE OF JOHN ANDERSON DRIVE ALONG THE NORTH LINE OF PARCEL 17133200010080, PER OFFICIAL RECORD BOOK 1917, PAGE 0953, AND THE NORTH LINE OF PARCEL 16133200010030, PER OFFICIAL RECORD BOOK 2049, PAGE 1087;
26. THENCE SOUTH 23° EAST 929 FEET ALONG THE CENTERLINE OF JOHN ANDERSON DRIVE, LOCATED 1,493 FEET SOUTH OF THE SOUTH LINE FOR SECTION 9;
27. THENCE SOUTH 78° WEST 153 FEET ALONG THE SOUTH LINE OF PARCEL 16133200010030, PER OFFICIAL RECORD BOOK 2049, PAGE 1087, TO THE EAST EDGE OF HALIFAX CREEK;
28. THENCE SOUTH 23° EAST 5,242 FEET ALONG THE EAST EDGE OF HALIFAX CREEK TO THE SOUTHWEST CORNER OF PARCEL 21133200020010, PER OFFICIAL RECORD BOOK 6956, PAGE 3747;
29. THENCE SOUTH 90° EAST 1,250 FEET TO THE NORTHWEST CORNER OF PARCEL 21132200040010, PER OFFICIAL RECORD BOOK 6826, PAGE 1586;
30. THENCE SOUTH 23° EAST 404 FEET TO THE SOUTHWEST CORNER OF PARCEL 21132200040010, PER OFFICIAL RECORD BOOK 6826, PAGE 1586;
31. THENCE SOUTH 88° EAST 813 FEET TO THE POINT OF COMMENCEMENT.

LESS OUT

A

1. COMMENCE AT THE CENTERLINE OF OCEAN SHORE BLVD (A1A) 632 FEET SOUTH OF THE SOUTH LINE OF SECTION 9;
2. THENCE NORTH 88° EAST 139 FEET TO THE SHORELINE OF THE ATLANTIC OCEAN AT THE SOUTHEAST CORNER OF PARCEL 16133201000880, PER OFFICIAL RECORD BOOK 4672, PAGE 0283;
3. THENCE NORTH 23° WEST 1,141 FEET ALONG THE SHORELINE OF THE ATLANTIC OCEAN, LOCATED 431 FEET NORTH OF THE SOUTH LINE OF SECTION 9;
4. THENCE NORTH 88° WEST 139 FEET TO THE CENTERLINE OF OCEAN SHORE BLVD (A1A);
5. THENCE NORTH 23° WEST 1,052 FEET ALONG THE CENTERLINE OF OCEAN SHORE BLVD (A1A), LOCATED 1,416 FEET NORTH OF THE SOUTH LINE OF SECTION 9;

6. THENCE SOUTH 88° WEST 1,541 FEET ALONG THE SOUTH LINE OF PARCEL 0813320101C580, PER OFFICIAL RECORD BOOK 6586, PAGE 2933, TO THE EAST EDGE OF HALIFAX CREEK;
7. THENCE SOUTH 23° EAST 1,545 FEET ALONG THE EAST EDGE OF HALIFAX CREEK, TO THE NORTHEAST CORNER OF PARCEL 17133200010020, OFFICIAL RECORD BOOK 6834, PAGE 3191;
8. THENCE SOUTH 88° EAST 371 FEET TO THE NORTHEAST CORNER OF PARCEL 16133201000270, PER OFFICIAL RECORD BOOK 7247, PAGE 0769;
9. THENCE SOUTH 12° EAST 527 FEET TO THE SOUTHEAST CORNER OF PARCEL 16133201000660, PER OFFICIAL RECORD BOOK 7112, PAGE 1844;
10. THENCE NORTH 88° EAST 1,403 FEET TO THE COMMENCEMENT POINT.

B

1. COMMENCE AT THE CENTERLINE OF OCEAN SHORE BLVD (AIA) 1,030 FEET NORTH OF THE SOUTH LINE OF SECTION 16;
2. THENCE NORTH 88° EAST 111 FEET TO THE SHORELINE OF THE ATLANTIC OCEAN AT THE SOUTHEAST CORNER OF PARCEL 16133203000010, OFFICIAL RECORD BOOK 4446, PAGE 1762;
3. THENCE NORTH 23° WEST 281 FEET ALONG THE SHORELINE OF THE ATLANTIC OCEAN TO THE NORTHEAST CORNER OF PARCEL 16133203000040, OFFICIAL RECORD BOOK 6834, PAGE 2744;
4. THENCE SOUTH 88° WEST 800 FEET TO THE SOUTHWEST CORNER OF PARCEL 16133208000510, OFFICIAL RECORD BOOK 3822, PAGE 1958;
5. THENCE NORTH 30° EAST 342 FEET TO THE CENTERLINE OF JULIE DRIVE;
6. THENCE NORTH 60° EAST 134 FEET TO THE SOUTHEAST CORNER OF PARCEL 16133208000140, OFFICIAL RECORD BOOK 7252, PAGE 4330;
7. THENCE NORTH 23° WEST 335 FEET TO THE NORTHWEST CORNER OF PARCEL 16133210030010, OFFICIAL RECORD BOOK 6944, PAGE 2102;
8. THENCE NORTH 88° EAST 177 FEET TO THE SOUTHWEST CORNER OF PARCEL 16133211004020, OFFICIAL RECORD BOOK 6438, PAGE 4032;
9. THENCE NORTH 23° WEST 493 FEET TO THE NORTHWEST CORNER OF PARCEL 16133216000060; OFFICIAL RECORD BOOK 6967, PAGE 0126;

10. THENCE SOUTH 88° WEST 1,303 FEET TO THE NORTHWEST CORNER OF PARCEL 16133202000170, OFFICIAL RECORD BOOK 6172, PAGES 2481-2482;
11. THENCE SOUTH 23° EAST 931 FEET TO THE NORTH CORNER OF PARCEL 16133208000470, OFFICIAL RECORD BOOK 4142, PAGE 2070;
12. THENCE SOUTH 45° EAST 140 FEET ALONG THE NORTHEAST LINE OF PARCEL 16133208000470, OFFICIAL RECORD BOOK 4142, PAGE 2070, AND THE NORTHEAST LINE OF PARCEL 16133208000460, OFFICIAL RECORD BOOK 5625, PAGE 1055, TO THE EAST CORNER OF PARCEL 16133208000460, OFFICIAL RECORD BOOK 5625, PAGE 1055;
13. THENCE SOUTH 23° WEST 135 FEET ALONG THE SOUTHEAST LINE OF PARCEL 16133208000460, OFFICIAL RECORD BOOK 5625, PAGE 1055, TO THE SOUTHEAST CORNER OF PARCEL 16133208000460, OFFICIAL RECORD BOOK 5625, PAGE 1055;
14. THENCE SOUTH 23° EAST 138 FEET ALONG THE EAST LINE OF PARCEL 16133203000330, OFFICIAL RECORD BOOK 4665, PAGE 4177, AND THE EAST LINE OF PARCEL 16133203000320, OFFICIAL RECORD BOOK 6674, PAGE 4101, TO THE CENTERLINE OF CAPISTRANO DRIVE;
15. THENCE SOUTH 23° WEST 133 FEET ALONG THE EAST LINE OF PARCEL 16133203000380, OFFICIAL RECORD BOOK 4824, PAGE 2773, TO THE SOUTHEAST CORNER OF PARCEL 16133203000380, OFFICIAL RECORD BOOK 4824, PAGE 2773;
16. THENCE NORTH 88° EAST 1,702 FEET TO THE COMMENCEMENT POINT.

C

1. COMMENCE AT THE CENTERLINE OF OCEAN SHORE BLVD (A1A) 690 FEET SOUTH OF THE SOUTH LINE OF SECTION 16;
2. THENCE SOUTH 88° EAST 80 FEET TO THE SOUTHEAST CORNER OF PARCEL 21133201001791, OFFICIAL RECORD BOOK 6620, PATE 4880, AT THE SHORELINE OF THE ATLANTIC OCEAN;
3. THENCE NORTH 23° WEST 734 FEET ALONG THE SHORELINE OF THE ATLANTIC OCEAN TO THE CENTERLINE OF VIA MADRID DRIVE;
4. THENCE SOUTH 88° WEST 1,781 FEET ALONG THE CENTERLINE OF VIA MADRID DRIVE;
5. THENCE SOUTH 21° EAST 355 FEET TO THE NORTHEAST CORNER OF PARCEL 21133201000810, OFFICIAL RECORD BOOK 6796, PAGE 0779;

6. THENCE NORTH 88° WEST 150 FEET ALONG THE NORTH SIDE OF PARCEL 21133201000810, OFFICIAL RECORD BOOK 6796, PAGE 0779, TO THE CENTERLINE OF JOHN ANDERSON DRIVE;
7. THENCE SOUTH 21° EAST 343 FEET ALONG THE CENTERLINE OF JOHN ANDERSON DRIVE;
8. THENCE NORTH 88° EAST 1,880 FEET TO THE POINT OF COMMENCEMENT.

D

1. COMMENCE AT THE CENTERLINE OF MARLIN DRIVE 200 FEET NORTH 90° WEST OF THE INTERSECTION OF OCEAN SHORE BLVD (A1A) AND MARLIN DRIVE;
2. THENCE SOUTH 23° EAST 125 FEET ALONG THE EAST LINE OF PARCEL 21133202000650, OFFICIAL RECORD BOOK 6660, PAGE 2131, TO THE SOUTHEAST CORNER OF PARCEL 21133202000650, OFFICIAL RECORD BOOK 6660, PAGE 2131;
3. THENCE SOUTH 88° WEST 1,541 FEET TO THE SOUTHWEST CORNER OF PARCEL 21133202000380, OFFICIAL RECORD BOOK 6600, PAGE 3613;
4. THENCE NORTH 23° WEST 127 FEET ALONG THE WEST SIDE OF PARCEL 21133202000380, OFFICIAL RECORD BOOK 6600, PAGE 3613, TO THE CENTERLINE OF MARLIN AVENUE;
5. THENCE NORTH 90° WEST 31 FEET ALONG THE CENTERLINE OF MARLIN AVENUE;
6. THENCE NORTH 23° WEST 120 FEET ALONG THE WEST SIDE OF PARCEL 21133202000310, OFFICIAL RECORD BOOK 4235, PAGE 1405, TO THE NORTHWEST CORNER OF PARCEL 21133202000310, OFFICIAL RECORD BOOK 4235, PAGE 1405;
7. THENCE NORTH 0° EAST 1,340 FEET TO THE NORTHEAST CORNER OF PARCEL 21133202000080, OFFICIAL RECORD BOOK 6289, PAGES 1424-1426;
8. THENCE SOUTH 23° EAST 127 FEET ALONG THE EAST LINE OF PARCEL 21133202000080, OFFICIAL RECORD BOOK 6289, PAGES 1424-1426, TO THE CENTERLINE MARLIN AVENUE;
9. THENCE SOUTH 88° EAST 255 FEET ALONG THE CENTERLINE OF MARLIN AVENUE TO THE POINT OF COMMENCEMENT.

**FLORIDA PUBLIC SERVICE COMMISSION
authorizes
CSWR-Florida Utility Operating Company, LLC
pursuant to
Certificate Number 249-S**

to provide wastewater service in Volusia 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>
8116	12/22/77	19770595-S	Original Certificate
9365	05/09/80	19800320-S	Amendment
22345	12/27/89	19891016-SU	Transfer Certificate
24272	03/21/91	19900659-SU	Amendment
PSC-96-0262-FOF-SU	02/23/96	19951373-SU	Amendment
PSC-05-0426-FOF-SU	04/20/05	20041301-SU	Amendment
PSC-09-0420-FOF-SU	06/15/09	20090040-SU	Amendment
PSC-09-0420A-TRF-SU	07/21/09	20090040-SU	Amendatory
PSC-10-0613-FOF-SU	10/11/10	20100317-SU	Amendment
PSC-16-0522-PAA-SU	11/21/16	20130209-SU	Amendment
*	*	20210133-SU	Transfer

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

**CSWR-Florida Utility Operating Company, LLC
(North Peninsula Utilities Corporation)
Monthly Wastewater Rates**

Residential Service

Single Family Residential Homes \$39.20

General Service

Las Olas Townhomes (6 ERCs) \$237.24
Ocean Air (17 ERCs) \$666.43
Seabridge North (65 ERCs) \$2,548.09
Seabridge South (70 ERCs) \$2,744.10
Restaurant – Ocean Shore Blvd. (14 ERCs) \$548.82

Miscellaneous Service Charges

Late Payment Charge \$6.77

Service Availability Charges

Main Extension Charge

Residential with Road Crossing per ERC (250 gpd) \$762.00
All others per gallon \$3.05

Residential without Road Crossing per ERC (250 gpd) \$444.00
All others per gallon \$1.78

Force Main (per linear sq. ft.) \$1.25

**CSWR-Florida Utility Operating Company, LLC
(North Peninsula Utilities Corporation)**

Schedule of Net Book Value as of July 31, 2021

<u>Description</u>	<u>Balance Per Utility</u>	<u>Adjustments</u>		<u>Staff</u>
Utility Plant in Service	\$947,621	(\$22,671)	A	\$924,950
Land & Land Rights	46,800	-		46,800
Accumulated Depreciation	(708,509)	(15,068)	B	(723,577)
CIAC	(641,756)	31	C	(641,725)
Amortization of CIAC	<u>641,073</u>	<u>7</u>	D	<u>641,080</u>
Total	<u>\$286,229</u>	<u>(\$37,701)</u>		<u>\$247,528</u>

**CSWR-Florida Utility Operating Company, LLC
(North Peninsula Utilities Corporation)**

Explanation of Adjustments to Net Book Value as of July 31, 2021

Explanation	Amount
A. UPIS To reflect the appropriate balance.	(\$22,671)
B. Accumulated Depreciation To reflect the appropriate balance.	15,068
C. CIAC To correct Commission-ordered adjustment from last rate case.	(31)
D. Accumulated Amortization of CIAC Corresponding adjustment to the CIAC adjustment above.	<u>7</u>
Total Adjustments to Net Book Value as of July 31, 2021	<u>(\$37,701)</u>

**CSWR-Florida Utility Operating Company, LLC
(North Peninsula Utilities Corporation)**

Schedule of Staff's Recommended Account Balances as of July 31, 2021

Account No.	Description	UPIS	Accumulated Depreciation
352	Franchises	\$6,310	\$6,310
354	Structures & Improvements	166,920	165,471
360	Collection Sewers - Force	322,603	322,603
361	Collection Sewers - Gravity	5,410	3,688
363	Services to Customers	29,870	29,863
364	Flow Measuring Devices	2,875	998
370	Receiving Wells	1,278	1,201
371	Pumping Equipment	50,887	(12,604)
380	Treatment and Disposal - Equipment	<u>338,797</u>	<u>206,074</u>
	Total	<u>\$924,950</u>	<u>\$723,577</u>

Item 8

FILED 2/17/2022
DOCUMENT NO. 01284-2022
FPSC - COMMISSION CLERK

State of Florida



Public Service Commission

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

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

DATE: February 17, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Wu) *JGH*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20210181-EI – Petition for approval of depreciation rates for direct current microgrid pilot equipment by Tampa Electric Company.

AGENDA: 03/01/22 – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Pursuant to Rule 25-6.0436(3)(a), Florida Administrative Code (F.A.C.), Florida's investor-owned electric utilities are required to maintain depreciation rates and accumulated depreciation reserves in accounts or subaccounts in accordance with the Uniform System of Accounts for Public Utilities and Licensees, as found in the Code of Federal Regulations, which is incorporated by reference in Rule 25-6.014(1), F.A.C.¹ In addition to this requirement, Rule 25-6.0436(3)(b), F.A.C., requires that: “[u]pon establishing a new account or subaccount classification, each utility shall request Commission approval of a depreciation rate for the new plant category.

¹ Code of Federal Regulations, Title 18, Subchapter C, Part 101, for Major Utilities, as revised April 1, 2013.

On June 30, 2021, the Commission approved Tampa Electric Company's (TECO or Company) Direct Current Microgrid Pilot (DC Microgrid or Pilot) by Order No. PSC-2021-0237-PAA-EI.² The Order notes that TECO will request approval from the Commission for establishing new depreciation accounts/subaccounts, with corresponding depreciation rates, to record certain new categories of plant assets associated with the pilot program implementation.

On November 15, 2021, TECO filed its Petition for Approval of Depreciation Rates for Direct Current Microgrid Pilot Equipment (Petition), consistent with Section 366.04, Florida Statutes, Rules 25-6.0436(3)(a)(b), F.A.C., and Order No. PSC-2021-0237-PAA-EI.

The Pilot involves installation of new direct current electric microgrid technology and associated generating equipment, known as the Block Energy System. This system will utilize rooftop photovoltaic solar arrays, natural gas-fueled reciprocating generating units and distributed energy storage. The Petition notes that TECO does not currently have a depreciation subaccount for the reciprocating generators. It also needs to create new subaccounts for the Company-owned rooftop solar panels and related battery storage utilized in the Pilot to isolate those plant assets from the existing accounts for the utility-scale solar panels and utility-scale battery storage.

Staff is not aware of any public comments or concerns regarding this matter.

The Florida Public Service Commission has jurisdiction in this matter pursuant to Sections 366.04, 366.05 and 366.06, F.S.

² Order No. PSC-2021-0237-PAA-EI, issued June 30, 2021, in Docket No. 20200234-EI, *In re: Petition for approval of direct current microgrid pilot program and for variance from or waiver of Rule 25-6.065, F.A.C., by Tampa Electric Company.*

Discussion of Issues

Issue 1: Should TECO’s request to establish new depreciation subaccounts applicable to its Direct Current Microgrid Pilot be approved, and, if so, what are the appropriate corresponding depreciation rates?

Recommendation: Yes. Staff recommends that the Commission approve TECO’s request to establish the Pilot-related new depreciation subaccounts with corresponding depreciation parameters and annual depreciation rates as listed in Table 1 below. (Wu)

Staff Analysis: TECO seeks the Commission’s approval to establish four depreciation subaccounts for certain new categories of plant assets associated with its Block Energy System of the Pilot program:

- 341.98 Structure and Improvements – DC Microgrid,
- 343.98 Prime Movers – DC Microgrid,
- 345.98 Accessory Electric Equipment – DC Microgrid, and
- 348.98 Energy Storage Battery Equipment – DC Microgrid.

Subaccount 341.98 is for the Pilot-related Block Energy System structural steel and foundations.³ TECO proposed an initial Average Service Life (ASL) of 30 years and Net Salvage (NS) of zero percent, which derives a 3.3 percent annual depreciation rate for the subaccount.⁴ Staff concurs with this proposal as it is in line with the Commission’s previous decision.⁵

Subaccount 343.98 will be used to book the rooftop solar panels and the natural gas-fueled reciprocating generating units used in the Block Energy System.⁶ Regarding the rooftop solar assets, paragraph 15 of the Petition reads “[i]n accordance with the 2021 Agreement, Tampa Electric requests a service life of 35 years for the Pilot rooftop solar assets, or an annual depreciation rate of 2.9 percent.”⁷ However, in response to staff’s data request, TECO revised this request by proposing an initial ASL of 30 years and NS of zero, which derives an annual depreciation rate of 3.3 percent for the rooftop solar assets in discussion.⁸ The Company explained the basis of the revision as follows:

Utility Scale solar plant subaccounts have moved from ASL [of] 30-years to ASL [of] 35 years per the 2021 Agreement. Roof Top solar panels, per the

³ Document No. 00109-2022, TECO’s response to Staff’s First Data Request, No. 1.a.

⁴ Document No. 00109-2022, TECO’s response to Staff’s First Data Request, No. 1.c.

⁵ Order No. PSC-15-0573-PAA-EI, in Docket No. 20150211-EI, issued December 18, 2015, *In re: Petition for approval of depreciation rates for solar photovoltaic generating units, by Tampa Electric Company*.

⁶ Document No. 00109-2022, TECO’s response to Staff’s First Data Request, No. 1.a.

⁷ The “2021 Agreement” was approved by Order No. PSC-2021-0423-S-EI, issued: November 10, 2021, *In re: Petition for rate increase by Tampa Electric Company*.

⁸ Document No. 00109-2022, TECO’s response to Staff’s First Data Request, No. 1.c.

manufacturer, have a 25-year product warranty and 30-year performance warranty.⁹

Generally, in a rate case settlement, the agreed upon depreciation parameters sometimes result from the parties' negotiations in the context of the entire rate case. For the instant docket, staff notes that TECO's revised service life proposal does reflect the plant assets' life characteristic; it is also within the industry range and consistent with the Commission's approval of ASL and NS for similar assets for TECO in 2015.¹⁰ As such, staff recommends that an initial ASL of 30 years, deriving a depreciation rate of 3.3 percent, is appropriate for the Pilot-related rooftop solar panels.

With respect to the natural gas-fueled reciprocating generating units, TECO indicated that the life is between 10,000 and 15,000 operating hours (3.4 to 5.1 years); and as they are considered to be stand-by units, the expected life of these units is 20-25 years.¹¹

TECO proposed to use the same subaccount, 343.98 Prime Movers – DC Microgrid, for both solar panels and the reciprocating generating units. It claimed that heterogeneous equipment (retirement units) can exist in the same plant subaccount to avoid use of redundant plant accounts/subaccounts.¹² The Company further explained that

Since future depreciation studies can analyze the stratification of retirement units for long, medium and short categories, roof top solar panels would be classified as long using an ASL 30-35 years and generators would be classified as medium using an ASL 20-25 years. This creates a blending of average service lives and an initial 30-year ASL would be appropriate.¹³

Stratification, which groups together, for depreciation study purposes, items of plants having similar life and salvage characteristics, has been used in TECO's previous depreciation studies.¹⁴ It is consistent with Rule 25-6.04361(5)(c), F.A.C., and allows cost recovery provisions to be more closely matched to the life characteristics of specific categories of investment made to provide for the generation of electric power. Staff believes that TECO's proposal for the subaccount and the associated service life is reasonable.

Subaccount 345.98 will be used to book the accessory electric equipment associated with the Block Energy System. TECO proposed an initial ASL of 30 years and NS of zero percent, deriving a 3.3 percent annual depreciation rate.¹⁵ These are in line with what TECO proposed for the electric equipment discussed above. Staff believes the proposed depreciation parameters and rate are reasonable.

⁹ Document No. 00785-2022, TECO's response to Staff's Second Data Request, No. 2.a.

¹⁰ Order No. PSC-15-0573-PAA-EI, issued December 18, 2015, *In re: Petition for approval of depreciation rates for solar photovoltaic generating units, by Tampa Electric Company.*

¹¹ Document No. 00109-2022, TECO's response to Staff's First Data Request, No. 2.c.

¹² Document No. 00785-2022, TECO's response to Staff's Second Data Request, No. 1.

¹³ *Id.*

¹⁴ Document Nos. 05429-2021, in Docket No. 20110131-EI, Bates-stamped pages 1-3, and 12501-2021, in Docket No. 20200264-EI, Bates-stamped pages 2463-2464.

¹⁵ Document No. 00109-2022, TECO's response to Staff's First Data Request, No. 1.a.

Subaccount 348.98 will be used to book the energy storage battery equipment associated with the Pilot.¹⁶ The design life estimate for the asset is about 10 years, and there are no differences between the asset and the battery storage equipment currently in-service in TECO’s system.¹⁷ According to TECO, the battery storage associated with the Block Energy System is relatively new equipment technology deployed by the Company, and there is not enough operational experience at this time.¹⁸ Consequently, TECO proposed an initial ASL of 10 years and NS of zero percent, resulting in a 10.0 percent annual depreciation rate, in accordance with what was approved for TECO’s utility-scale battery storage.^{19,20} Staff concurs with TECO’s proposals.

Table 1: Staff Recommended Depreciation Parameters and Rates

Acct. No.	Account Description	ASL (year)	NS (%)	Depreciation Rate (%)
341.98	Structure and Improvements – DC Microgrid	30	0	3.3
343.98	Prime Movers – DC Microgrid	30	0	3.3
345.98	Accessory Electric Equipment – DC Microgrid	30	0	3.3
348.98	Energy Storage Battery Equipment – DC Microgrid	10	0	10.0

TECO will include the new subaccounts, if approved, in its next depreciation study filed with the Commission.²¹ Consistent with Order No. PSC 2021-0237-PAA-EI, the Company will pursue cost recovery for the Pilot in its next general base rate case.²²

When the Pilot is suspended by TECO, either at the end of year one or four,²³ the undepreciated amount of the plant assets will stay in service at their current location to serve the customers and provide generation as needed to the grid.²⁴ When a Pilot customer chooses to terminate their DC service, the affected equipment, excepting the solar panels, will be relocated and placed into service, provided that the equipment can be repurposed within the Company’s operating system. Otherwise, the remaining net book value of the equipment will be imputed and written-off to Account 421.2, Loss on Disposition of Property.²⁵ With respect to the solar panels, the Pilot customer can opt to keep them by paying TECO a nominal value of \$1.00. Hence, the panels could be repurposed to provide that Pilot customer with solar power that would be subject to an interconnection agreement with TECO.²⁶

¹⁶ Document No. 00109-2022, TECO’s response to Staff’s First Data Request, No. 1.a.

¹⁷ Document No. 00109-2022, TECO’s response to Staff’s First Data Request, Nos 4.a and 4.b.

¹⁸ Document No. 00109-2022, TECO’s response to Staff’s First Data Request, No. 4.b.

¹⁹ *Id* and Petition, paragraph 16.

²⁰ Order No. PSC-2020-0156-PAA-EI, issued April 20, 2020, in Docket No. 20190215-EI, *In re: In re: Petition for approval of depreciation rates for energy storage equipment, by Tampa Electric Company*, and Order No. PSC-2021-0423-S-EI; and Order No. PSC-2021-0423-S-EI.

²¹ Petition, paragraph 17.

²² See Order No. PSCPSC 2021-0237-PAA-EI, page 6; and *Id*.

²³ See Order No. PSC-2021-0237-PAA-EI, page 5.

²⁴ Document No. 00109-2022, TECO’s response to Staff’s First Data Request, Nos. 2.e and 4.c.

²⁵ *Id*.

²⁶ See Order No. PSC-2021-0237-PAA-EI, page 5.

Issue 2: What should be the effective date if TECO’s petitioned new depreciation subaccounts, parameters and rates discussed in Issue 1 are approved?

Recommendation: Staff recommends that the newly-approved depreciation subaccounts and the corresponding parameters and rates become effective on the date that Pilot-related Block Energy System is placed in-service. (Wu)

Staff Analysis: Depreciation is the recovery of invested capital representing equipment that is providing service to the public. This recovery is designed to take place over the related period of service to the public, which begins with the equipment’s in-service date. The Pilot-related Block Energy System is currently in the final stages of commissioning and testing. The target in-service date is February 8, 2022, according to the Company’s latest data request response.²⁷ Staff recommends that if the Commission authorizes the petitioned depreciation subaccounts and the corresponding depreciation parameters and annual depreciation rates, the effective date of the implementation should be the in-service date of the Block Energy System.

²⁷ Document No. 00785-2022, TECO’s response to Staff’s Second Data Request, No. 3.

Issue 2: What should be the effective date if TECO's petitioned new depreciation subaccounts, parameters and rates discussed in Issue 1 are approved?

Recommendation: Staff recommends that the newly-approved depreciation subaccounts and the corresponding parameters and rates become effective on the date that Pilot-related Block Energy System is placed in-service. (Wu)

Staff Analysis: Depreciation is the recovery of invested capital representing equipment that is providing service to the public. This recovery is designed to take place over the related period of service to the public, which begins with the equipment's in-service date. The Pilot-related Block Energy System is currently in the final stages of commissioning and testing. The target in-service date is February 8, 2022, according to the Company's latest data request response.²⁷ Staff recommends that if the Commission authorizes the petitioned depreciation subaccounts and the corresponding depreciation parameters and annual depreciation rates, the effective date of the implementation should be the in-service date of the Block Energy System.

²⁷ Document No. 00785-2022, TECO's response to Staff's Second Data Request, No. 3.

Issue 3: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Brownless)

Staff Analysis: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.

Item 9

FILED 2/17/2022
DOCUMENT NO. 01289-2022
FPSC - COMMISSION CLERK

State of Florida



Public Service Commission

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

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

DATE: February 17, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Ward) *JGH*
Office of the General Counsel (Sandy) *JSC*

RE: Docket No. 20210197-EU – Joint petition for approval of amendment to territorial agreement, by Tampa Electric Company and Withlacoochee River Electric Cooperative, Inc.

AGENDA: 03/01/22 – 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 December 28, 2021, Tampa Electric Company (TECO) and Withlacoochee River Electric Cooperative, Inc. (WREC) (collectively, joint petitioners) filed a joint petition for approval of an amendment to their current territorial agreement in Pasco County (the proposed amendment). TECO serves retail customers in Hillsborough County and in portions of Polk, Pinellas, and Pasco Counties. WREC serves retail customers in portions of Hernando, Citrus, Sumter, Pasco, and Polk Counties.

The original electric service boundary between TECO and WREC was approved by the Commission in 1974 in Order No. 6281.¹ The boundary was amended in 1990 in Order No. 23905² and further amended in 2006 in Order No. PSC-06-0128-PAA-EU (2006 Order).³ The boundary was amended for a third time in 2017 in Order No. PSC-17-0241-PAA-EU (2017 Order).⁴ The instant petition seeks to amend the territorial boundaries to accommodate proposed modifications to the service area within the Two Rivers Ranch subdivision (Two Rivers Ranch or subdivision) located adjacent to the Hillsboro-Pasco County line, as shown in Attachment B. All other aspects of the current agreement, shown as Attachment A, would remain in place.

Staff issued a data request on January 25, 2022, to which the responses were received on February 9, 2022. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes, (F.S.).

¹ Order No. 6281, issued September 16, 1974, in Docket No. 1974485-EU, *In re: Application of Tampa Electric Company for approval of territorial agreement with Withlacoochee River Electric Cooperative, Inc., relative to respective retail electric systems and service areas.*

² Order No. 23905, issued December 20, 1990, in Docket No 19900752-EU, *In re: Joint Petition for Approval of 1990 Amendment to Territorial Agreement by Tampa Electric Company and Withlacoochee River Electric Cooperative, Inc.*

³ Order No. PSC-06-0128-PAA-EU, issued February 16, 2006, in Docket No. 20041408-EU, *In re: Joint petition of Tampa Electric Company and Withlacoochee River Electric Cooperative, Inc. for expedited interim approval of customer transfers pending consideration of joint application for permanent relocation of territorial boundaries.*

⁴ Order No. PSC-17-0241-PAA-EU, issued June 21, 2017, in Docket No. 20170068-EU, *In re: Joint petition for approval of amendment to territorial agreement, by Tampa Electric Company and Withlacoochee River Electric Cooperative, Inc.*

Discussion of Issues

Issue 1: Should the Commission approve the joint petition by TECO and WREC to amend their territorial agreement related to the boundaries of Two Rivers Ranch in Pasco County?

Recommendation: Yes, the Commission should approve the joint petition by TECO and WREC to amend their territorial agreement related to the boundaries of Two Rivers Ranch in Pasco County. The approval of this amendment would enable TECO and WREC to redefine their existing service boundary to better serve their existing and future customers in Pasco County, and will not be a detriment to the public interest. (Ward)

Staff Analysis: Pursuant to Section 366.04(2)(d), F.S., and Rule 25-6.0440(2), Florida Administrative Code (F.A.C.), the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Unless the Commission determines that the amendment to the 1990 territorial agreement will cause a detriment to the public interest, the amendment should be approved.⁵

The Proposed Amendment to the 1990 Territorial Agreement

A new residential subdivision, known as Two Rivers Ranch, is currently under development adjacent to the Hillsborough-Pasco County line. A section of the existing service boundary runs through the planned subdivision. The joint petitioners state that the current service boundary runs through proposed home lots, across planned streets, and without regard to future utility easement areas in the subdivision.

In 2021, TECO and WREC had discussions for the provision of electric service to the new Two Rivers Ranch subdivision. These discussions led to a mutual agreement between TECO and WREC regarding the most efficient, reliable provision of electricity to the new subdivision. Under this agreement, the revised boundary lines would follow along parcel lines within the subdivision and only cross one road. The joint petitioners assert that this proposal would allow both utilities to have sufficient access to the areas to be served and it would facilitate the orderly provision of electricity by the two utilities. If approved, the joint petitioners state that the revised agreement would ensure that each parcel tract and homeowners' association within the larger development would be served by a single utility. Furthermore, the petitioners assert that the proposed territorial amendment would not cause a decrease in the reliability of electric service to the existing and future ratepayers of either utility and would prevent the uneconomic duplication of facilities.

Under the proposed amendment, TECO could gain 475 new residential customers from the transfer of proposed lots in WREC's current territory, while WREC could gain 561 new residential customers from the transfer of proposed lots in TECO's current territory. In response to staff's data request, the joint petitioners stated that all of the aforementioned customers would be within the Two Rivers Ranch subdivision. The joint petitioners state that the boundaries are designed to reallocate lots, as evenly as possible, between the utilities, while avoiding uneconomic duplication and providing safe and reliable service. As this subdivision has not been

⁵ *Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission*, 469 So. 2d 731 (Fla. 1985).

developed, there are no current customers to be transferred as a result of the proposed territorial amendment. Similarly, there are no affected customers to be notified. Pursuant to Rule 25-6.0440(1)(f), F.A.C., the joint petitioners provided a map depicting the proposed boundary line of the subdivision. The map is shown in Attachment B to this recommendation.

Conclusion

After review of the petition, the proposed territorial amendment, and the joint petitioners' responses to staff's data request, staff believes that the proposed territorial amendment is in the public interest and will enable TECO and WREC to better serve the future customers in the Two Rivers Ranch subdivision in Pasco County. It appears that the proposed territorial amendment eliminates any potential uneconomic duplication of facilities and will not cause a decrease in the reliability of electric service. Therefore, staff recommends that the Commission should approve the proposed amendment to the territorial agreement between TECO and WREC in Pasco County.

Issue 2: Should this docket be closed?

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

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

AGREEMENT

Section 0.1 THIS AGREEMENT is made and entered into this 12 day of June, 1990 by and between TAMPA ELECTRIC COMPANY, a private corporation organized and existing under the laws of the State of Florida with its principal place of business located in Tampa, Florida (hereinafter "TEC"), and WITHLACOOCHEE RIVER ELECTRIC COOPERATIVE, INC., a rural electric cooperative organized and existing under Chapter 425, Fla. Stat., and under the Rural Electrification Act, 7 USC, §901 et seq., with the principal place of business located in Dade City, Florida ("WREC"). Collectively TEC and WREC will be called herein "the parties." Upon approval by the Florida Public Service Commission ("FPSC"), this Agreement specifically shall supersede any prior agreements between the parties defining the boundaries of their respective retail service territories.

WITNESSETH:

Section 0.2 WHEREAS, TEC, by virtue of its Charter, is authorized, empowered and by Florida law is obligated to furnish electricity and power to persons, firms and corporations within its service area and presently furnishes electricity and power to Customers in all of Hillsborough and in areas of Pinellas, Pasco, Polk Counties, Florida; and

Section 0.3 WHEREAS, WREC, by virtue of its Charter, is authorized, empowered and by Florida law is obligated to furnish electricity and power to persons, firms and corporations within its service area and presently furnishes electricity and power to Customers in Pinellas and Pasco Counties in Florida and elsewhere; and

Section 0.4 WHEREAS, the respective areas of retail service of the parties hereto are contiguous in many places, and the parties have entered into an approved territorial agreement dated June 18, 1974 in an effort to minimize costs to the general body of their ratepayers by avoiding duplication of generation, transmission and distribution facilities and have thereby avoided such duplication; and

Section 0.5 WHEREAS, the Florida Public Service Commission has previously recognized that any such duplication of said facilities results in needless and wasteful expenditures and may create hazardous situations, both being detrimental to the public interest, and has approved the aforesaid territorial agreement on September 16, 1974 in Docket No. 74485-EU by Order No. 6281; and

Section 0.6 WHEREAS, the parties hereto desire to continue to avoid and eliminate the circumstances giving rise to potential duplications and possible hazards and toward that end have established the Territorial Boundary Line to delineate their respective retail territorial service areas; and

Section 0.7 WHEREAS, the Florida Public Service Commission is empowered by the Legislature of the State of Florida, pursuant to Section 366.04(2)(d), Florida Statutes to approve and enforce territorial agreements and the Commission has recognized on numerous occasions the wisdom of retail territorial agreements between electric utilities and has held that retail territorial agreements, when properly presented to the Commission, in proper circumstances, are advisable and, indeed, in the public interest;

Section 0.8 NOW, THEREFORE, in fulfillment of the purposes and desires aforesaid, and in consideration of the mutual covenants and agreements herein contained, which shall be construed as being interdependent, the parties hereto, subject to and upon the terms and conditions herein set forth, do hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Territorial Boundary Line. As used herein, the term "Territorial Boundary Line" shall mean the boundary lines which circumscribe areas on the maps and legal descriptions attached hereto as composite Exhibit "A" and which differentiate and divide the TEC Territorial Area from the WREC Territorial Area. None of the territory assigned to TEC shall be served by WREC and none of the territory assigned to WREC shall be served by TEC except as specifically provided herein or in a separate final order of the Florida Public Service Commission.

Section 1.2 TEC Territorial Area. As used herein, the term "TEC Territorial Area" shall mean the geographic area shown on composite Exhibit "A" and designated "TEC Territorial Area."

Section 1.3 WREC Territorial Area. As used herein, the term "WREC Territorial Area" shall mean the geographic area shown on composite Exhibit "A" and designated "WREC Territorial Area."

Section 1.4 Transmission Lines. As used herein, the term "Transmission Lines" shall mean all transmission lines of either Party having a rating of 69 kv or greater.

Section 1.5 Distribution Lines. As used herein, the term "Distribution Lines" shall mean all distribution lines of either Party having a rating up to, but not including, 69 kv.

Section 1.6 New Customers. As used herein, the term "New Customers" shall mean all retail electric consumers applying for service to either TEC or WREC after the effective date of this Agreement.

Section 1.7 Existing Customers. As used herein, the term "Existing Customers" shall mean all retail electric consumers receiving service on or before the effective date of this Agreement from either Party.

ARTICLE II

AREA ALLOCATIONS AND NEW CUSTOMERS

Territorial Questions

Section 2.1 Allocations. The TEC Territorial Area, as herein defined, will be assigned to TEC as its retail service area for the duration of this Agreement; and the WREC Territorial Area, as herein defined, will be assigned to WREC as its retail service area for the same period; and, except as otherwise specifically provided herein, neither Party shall sell electricity to any retail Customer where such electricity serves the retail Customer's end use facility and such facility is located within the other Party's service area.

Section 2.2 Service to New Customers. TEC and WREC agree that neither supplier will attempt to serve or knowingly serve any applicant whose end use facilities are located within the service territory of the other.

TEC and WREC recognize that in exceptional circumstances, economic constraints on either utility or good engineering practices may on occasion indicate that a Customer's end use temporarily cannot be served by the utility in whose service territory they are located. In such instances, upon written request by the utility in whose territory the end use facility is located, to the other utility, the other utility may tentatively agree in writing to provide service to such Customer's end use. Such agreements shall be submitted to the Florida Public Service Commission for approval in accordance with Article IV, Section 4.1 hereof.

In the event that a prospective applicant requests or applies for service from either supplier to be provided to end use facilities located in the territory reserved to the other supplier, then the supplier receiving such a request or application shall refer the prospective applicant or applicants to the other supplier, with citation to the Commission approved Territorial Agreement, and shall notify the other supplier of the request or application.

If the prospective applicant delivers a written application for service after being referred to the other utility, or continues to demand service under an application made prior to a referral to the other utility, the utility receiving the request shall file a Petition for Declaratory Statement requesting the Commission to apply the Territorial Agreement to the facts presented. The petitioning supplier shall notify the other supplier and the applicant of its intent to file a Petition for Declaratory Statement prior to filing the Petition and shall request the joinder of the other supplier as a necessary party with the filing of the Petition. The petitioning supplier shall not provide electric service or attempt to

provide electric service to the applicant unless the Commission authorizes the service in an order binding both suppliers.

Section 2.3 The parties wish to provide an orderly transition of electric service to a mining facility located near the boundary separating the service areas of WREC and Tampa Electric. This mining facility has been owned by Zephyr Rock and Lime, Inc., although the parties understand the facility has been acquired by Plaza Materials Corporation, in whose name service has been transferred. Tampa Electric is presently serving this facility, although the parties believe that service in the future to this utility would be more appropriately provided by WREC. Accordingly, the parties agree that, subject to the Commission's approval, Tampa Electric will continue serving this facility until July 1, 1992 on which date, WREC will provide electric service to such facility.

Section 2.4 Exchange of Facilities. Upon the effective date hereof each Party shall sell (at original cost less accumulated book depreciation at the time of the transfer) the distribution facilities used to serve Customers transferred in accordance with this Agreement.

Section 2.5 Bulk Power for Resale. Nothing herein shall be construed to prevent either Party from providing bulk power supply to other electric utilities for resale purposes wheresoever such other electric utilities may be located. Further, no other provision of this Agreement shall be construed as applying to bulk power supply for resale.

ARTICLE III

OPERATION AND MAINTENANCE

Section 3.1 Facilities to Remain. Except as provided herein all generating plants, transmission lines, substations, distribution lines and related facilities now or hereafter constructed and/or used by either Party in conjunction with their respective electric utility systems, and which are directly or indirectly used and useful in service to Customers in their respective service areas or in fulfilling the requirements of law shall be allowed to remain where situated and shall not be subject to removal or transfer hereunder; provided, however, that each Party shall operate and maintain said lines and facilities in such manner as to minimize any interference with the operations of the other Party. Nothing contained herein shall be construed to apply to the Parties' facilities or locations thereof except as such facilities relate to providing retail service to the Parties' Customers in their respective service territories.

ARTICLE IV

PREREQUISITE APPROVAL

Section 4.1 Florida Public Service Commission. The provisions of this Agreement are subject to the regulatory authority of the Florida Public Service Commission, and appropriate approval by that body of the provisions of this Agreement shall be a prerequisite to the validity and applicability hereof and neither Party shall be bound hereunder until that approval has been obtained. Any proposed modifications to this Agreement shall be submitted to the Florida Public Service Commission for approval. The parties shall file an annual report to the Florida Public Service Commission on or before March 31 of each year beginning March 31, 1991 and

shall file such other information and reports as requested by the Commission from time to time. Such report shall provide the status of this Agreement and any modifications proposed in this Agreement. In addition the parties agree to jointly petition the Florida Public Service Commission to resolve any disputes concerning the provisions of this Agreement which the parties are unable to resolve.

Section 4.2 Liability in the Event of Disapproval. In the event approval pursuant to Section 4.1 is not obtained, neither Party will have any cause of action against the other arising under this document or on account of such non-attainment of approval.

ARTICLE V

DURATION

Section 5.1 This Agreement shall remain in effect after the date of the Florida Public Service Commission's final Order approving this Agreement until further order of the Florida Public Service Commission.

ARTICLE VI

CONSTRUCTION OF AGREEMENT

Section 6.1 Intent and Interpretation. It is hereby declared to be the purpose and intent of the parties that this Agreement shall be interpreted and construed, among other things, to eliminate and avoid the needless and wasteful expenditures and potentially hazardous situations which would otherwise result. The purpose of this Agreement, among other things, is to further this State's policy of supervising the planning, development, and maintenance of a coordinated electric power grid

throughout Florida; to avoid uneconomic duplication of generation transmission and distribution facilities; and to encourage the installation and maintenance of facilities necessary to fulfill the utilities' obligation to serve.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Negotiations. Whatever terms or conditions may have been discussed during the negotiations leading up to the execution of this Agreement, the only ones agreed upon are those set forth herein, and no alteration, modification, enlargement or supplement to this Agreement shall be binding upon either of the parties hereto unless the same shall be in writing and hereto attached and signed by both of the parties hereto and approved by the Florida Public Service Commission in accordance with Article IV, Section 4.1 hereof.

Section 7.2 Successors and Assigns. Nothing in this Agreement expressed or implied is intended, or shall be construed, to confer upon or give to any person or corporation, other than the parties hereto, any right, remedy or claim under or by reason of this Agreement, or any provision or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of, and shall be binding only upon, the parties hereto and their respective representatives, successors and assigns.

Section 7.3 Notices. Notices given hereunder shall be deemed to have been given to TEC if mailed by certified mail, postage prepaid, to: Vice President Customer Services/Marketing, Tampa Electric Company, Post

Office Box 111, Tampa, Florida 33601-0111; and to WREC if mailed by certified mail, postage prepaid, to: General Manager, Withlacoochee River Electric Cooperative, Inc., Post Office Box 278, Dade City, Florida 33525. Such address to which such notice shall be mailed may be, at any time, changed by designating such new address and giving notice thereof in writing in the manner as herein provided.

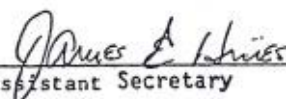
Section 7.4 Duplicate Originals. This Agreement is being executed in duplicate and each counterpart constitutes an original of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate in their respective corporate names and their corporate seals affixed by their duly authorized officers on the day and year first above written.

ATTEST:



Secretary

(SEAL)
ATTEST:



Assistant Secretary

(SEAL)

TAMPA ELECTRIC COMPANY

By 
Vice President Customer Services/
Marketing

WITHLACOOCHEE RIVER ELECTRIC
COOPERATIVE, INC.

By 
General Manager

Composite Exhibit "A"
to Territorial Agreement Between
Tampa Electric Company and
Withlacoochee River Electric Cooperative, Inc.

TAMPA ELECTRIC COMPANY

INDEX

<u>Document No.</u>	<u>Title</u>
1	Map of Overall Territorial Boundaries
2	Detailed Map of Green Swamp Area
3	Detailed Map of One Pasco Center and Cannon Ranch
4	Parcel Plan - Cannon Ranch
5	Boundary Survey - Cannon Ranch
6	Preliminary Plan Site Geometry - One Pasco Center
7	Overall Legal Description of Territorial Boundaries
8	Detailed Legal Description - One Pasco Center
9	Detailed Legal Description - Cannon Ranch
10	Detailed Legal Description - Green Swamp Area

PROPOSED TERRITORIAL BOUNDARY LINE ADDITION BETWEEN

TAMPA ELECTRIC COMPANY

AND

WITHLACOGCHEE RIVER ELECTRIC COOPERATIVE, INC.

1. Dade City Area

This portion of the Company's service area is described as that area lying within the boundaries of municipal corporations, including Dade City, San Antonio and St. Leo, and the surrounding areas within the boundary lines shown on the attached Exhibit A. The proposed territorial amended boundary line is described as follows:

Begin at the northwest corner of the northeast 1/4 of Section 16, T25S, R20E; thence east along the north boundary of said Section 16, to a point 1008.27 feet west of the northeast corner of said Section 16; and the point of beginning where the territorial boundary goes through the proposed Cannon Ranch Development according to the Master Development Phasing Plan, prepared by Florida Technical Services, Inc. and Ekistics Design Studio, February 2, 1988, revised May 31, 1989 - project number 020186.2; thence north 109.97 feet to a point in the southeast 1/4 of Section 9, T25S, R20E, being 1008.27 feet west and 109.97 feet north of the southeast corner of said Section 9; thence east 410.60 feet to a point 597.67 feet west and 109.97 feet north of the southeast corner of said Section 9; thence north 1222.99 feet to a point 1320.26 feet north and 599.85 feet west of the southeast corner of said Section 9; thence northeast 1131.51 feet to a point on the east boundary of said Section 9 being 2279.67 feet north of the southeast corner of said Section 9; thence east 1368.00 feet to the east boundary of the west 1/4 of Section 10, T25S, R20E, being 2279.53 feet north of the southeast corner of said west 1/4 of Section 10; thence southeast 1080.62 feet to the westerly right of way line of the main proposed collector road, being 1632.41 feet north and 865.43 feet east of the southeast corner of said west 1/4 of Section 10; thence southeasterly along the westerly right of way line of said proposed collector road to the point of tangency, being 531.70 feet east and 310.69 feet north of the southwest corner of the east 1/2 of said Section 10; thence southwest 1938.32 feet to a point in the west 1/2 of Section 15, T25S, R20E, being 1459.97 feet south and 1118.45 feet east of the northeast corner of the west 1/4 of said Section 15; thence east 1597.22 feet to a point of 1361.78 feet north and 1426.67 feet west of the southeast corner of the north 1/2 of said Section 15; thence southeast 1077.79 feet to the easterly right of way line of the proposed southeast spur of the collector road, being 616.86 feet north and 647.75 feet west of the southeast corner of the north 1/2 of said Section 15; thence northeasterly along the easterly right of way line of said proposed southeast spur of the collector road to a point in the west 1/2 of Section 14, T25S, R20E, being 907.86 feet east and 1333.13 feet north of the southwest corner of the north 1/2 of said Section 14; thence southeast 986.35 feet to a point 662.06 feet north and 1630.74 feet east of the southwest corner of the north 1/2 of said Section 14, thence east 1049.18 feet to the westerly right of way line of State Road 577, being 662.06 feet north and 2679.92 feet east of the southwest corner of the north 1/2 of said Section 14; thence northeasterly along the westerly right of way of said State Road 577 to a point on the east boundary of the west 1/2 of the east 1/2 of said Section 14, being 1626.89 feet south of the northeast corner of said west 1/2 of the east 1/2 of said Section 14, and the point of termination through said Cannon Ranch Development; thence south to the southeast corner of the west 1/2 of the east 1/2 of said Section 14; thence east along the south boundaries of Sections 14, 13, T25S, R20E, and Section 18, T25S, R21E, to the southeast corner of said Section 18; thence south along the east boundary of Section 19, T25S, R21E, to the northwest corner of section 29, T25S, R21E; thence east along the north boundary of said section 29 to the northwest corner of the east 1/2 of the northwest 1/4 of the northeast 1/4 of said section 29; thence south to the southwest corner of the east 1/2 of the northwest 1/4 of the northeast 1/4 of said section 29, and the south boundary of the north 1/2 of the northeast 1/4 of said section 29; thence east along the south boundary of the north 1/2 of the northeast 1/4 of said section 29 to the

TAMPA ELECTRIC COMPANY

DOCUMENT NO. 7

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west boundary of section 28, T25S, R21E; thence north along the west boundary of said section 28 to the southwest corner of section 21, T25S, R21E; thence east along the south boundaries of Sections 21, 22 and 23, T25S, R21E to the southeast corner of said Section 23; thence north along the east boundary of said Section 23, to the northeast corner of said Section 23; thence east along the north boundary of Section 24, T25S, R21E, and the north boundary of Section 19, T25S, R22E, to the easterly right of way line of the Seaboard Coastline Railroad; thence northwesterly along said railroad easterly right of way line to the north boundary of Section 13, T25S, R21E; thence east along the north boundary of said Section 13 and the north boundary of Section 18, T25S, R22E, to the northeast corner of said Section 18; thence north along the east boundaries of Sections 7 and 6, T25S, R22E, and the east boundaries of Sections 31 and 30, T24S, R22E, to the point of intersection with the Withlacoochee River and the east boundary of said Section 30; thence westerly and northerly along the Withlacoochee River to the east boundary of Section 1, T24S, R21E; thence north along the east boundary of said Section 1 to the northeast corner of said Section 1; thence west along the north boundary of Sections 1 and 2, T24S, R21E, to the westerly right of way line of the old Atlantic Coastline Railroad; thence southerly along said westerly right of way line to the south boundary of the north 1/2 of said Section 2, T24S, R21E; thence west along said south boundary to the westerly right of way line of the old Seaboard Railroad in Section 3, T24S, R21E; thence north along said westerly right of way line to the north boundary of said Section 3; thence west along the north boundary of Sections 3 and 4, T24S, R21E, to the northwest corner of said Section 4; thence north along the east boundaries of Sections 32 and 29, T23S, R21E, to the northeast corner of the south 1/4 of said Section 29; thence west along said south 1/4 section line of Sections 29 and 30, T23S, R21E, to the Pasco-Hernando County line; thence south along said county line to the north boundary of Section 1, T24S, R20E; thence west along said north boundary to the northeast corner of the west 1/4 of said Section 1; thence south along the east boundary of said west 1/4, to the south boundary of said Section 1; thence west along the south boundaries of Sections 1 and 2, T24S, R20E, to the northwest corner of the east 1/2 of Section 11, T24S, R20E; thence south along the west boundary of the east 1/2 of said Section 11, to the south boundary of said Section 11; thence west along the south boundaries of Sections 11 and 10, T24S, R20E, to the southwest corner of said Section 10, thence south along the west boundaries of Sections 15, 22 and 27, T24S, R20E; to the southwest corner of said Section 27; thence east along the south boundary of said Section 27, to the west boundary of the east 1/4 of Section 34, T24S, R20E; thence south along said west boundaries of the east 1/4 of said Section 34, T24S, R20E, and Section 3, T25S, R20E, to the southerly right of way of the old Atlantic Coastline Railroad; thence southwesterly along said railroad right of way line to the west boundary of the east 1/2 of Section 9, T25S, R20E; thence south along the west boundary of the east 1/2 of said Section 9 to the southerly right of way line of the former Seaboard Coastline Railroad and the northerly boundary of ONE PASCO CENTER-PHASE 1 as recorded in Plat Book 25, pages 28-31 of the Pasco County Public Records; thence northerly along said ONE PASCO CENTER-PHASE 1 development's north boundary to the northeasterly corner of proposed parcel 38-PHASE 3, according to the preliminary plan site geometry as prepared by Proctor and Redfern (formerly Housel & Associates) - Project Number 850901; being N 72° 18' 46" E a distance of 453.89 feet from the Point of Beginning for said ONE PASCO CENTER-PHASE 1 as recorded in Plat Book 25, pages 28-31 of the Pasco County Public Records; thence southerly along the easterly boundary of said proposed parcel 38, to the northeasterly corner of parcel 7 of said ONE PASCO CENTER-PHASE 1; thence southerly along the easterly boundaries of parcels 7, 6, 5, 4, 3, 2 and the southerly extension of the east boundary of parcel 1 of said ONE PASCO CENTER-PHASE 1, to the northerly right of way line of State Road 52; thence westerly along said right of way line to the west boundary of the east 1/2 of Section 9, T25S, R20E; thence south to the northwest corner of the northeast 1/4 of Section 16, T25S, R20E, also being the Point of Beginning.

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2. Hillsborough County and Polk County Area

Commence at the northwest corner of Section 6, T27S, R17E, which is the Pasco - Hillsborough County line; thence east along the north line of Sections 6, 5 and 4; to the northeast corner of Section 4, T27S, R17E; thence north along the west section line of Section 34 to the northwest corner of Section 34, T26S, R17E; thence east along the north line of Sections 34 and 35, T26S, R17E to the northeast corner of Section 35, thence south along the east line of Section 35 to the north line of the south 1/2 of the south 1/2 of Section 36, Township 26 South, Range 17 East, thence east along the north line of the south 1/2 of the south 1/2 of Section 36 to the east line of Section 36, thence south along the east line of Section 36 to the south county line of Pasco County, thence east along the south county line of Pasco County, to the southwest corner of Section 35, Township 26 South, Range 19 East, thence north along the west line of Section 35 to the northwest corner of this section, thence east from the northwest corner of this section to the northeast corner of Section 34, Township 26 South, Range 21 East, thence south along the east boundary of Section 34, Township 26 South, Range 21 East to the south county line of Pasco County, thence east along the south county line of Pasco County to the southeast corner of Section 36, Township 26 South, Range 21 East, thence north along the east boundaries of Section 36 and Section 25, Township 26 South, Range 21 East to a point where the Hillsborough River intersects the east boundary line of Section 25, Township 26 South, Range 21 East, thence northeasterly along the Hillsborough River to the Pasco-Polk County line, thence south along the east county line of Pasco County to the Seaboard Coastline Railroad, thence southeasterly along this railroad to the north county line of Hillsborough County; thence east to the Hillsborough-Polk County line. Continue at the SW corner of Section 31, T26S, R23E; thence north along the west boundaries of Sections 31 and 30, T26S, R23E to the NW corner of the south half of the north half of Section 30, T26S, R23E; thence east along the north boundary of said south half of the north half to the east boundary of said Section 30; thence continue east along the north boundary of the south half of the north half of Section 29, T26S, R23E, to the east boundary of the west half of said Section 29; thence north along said east boundary to the north boundary of said Section 29; thence continue north along the west boundary of the east half of Section 20, T26S, R23E, to the north boundary of the south half of said Section 20; thence east along said north boundary to the east boundary of said Section 20; thence continue east along the north boundary of the south half of Section 21, T26S, R23E, to the intersection with the centerline of Sherrouse Road; thence easterly along the centerline of said road to another intersection with the north boundary of the south half of Section 21, T26S, R23E; thence east along said north boundary to a point 769.80 feet west of the intersection of said north boundary and the westerly right-of-way U.S. Highway 98 (SR 700 & 35) and make a turn to the right and run southeasterly on a line parallel with and 553.84 feet from the said westerly right-of-way of U.S. Highway 98 to the south boundary of said Section 21; thence east along south boundary to the east boundary of said Section 21; thence continue east along the south boundary of Section 22, T26S, R23E to the east boundary of the west half of the west half of said Section 22; thence north along said east boundary 2616.65 feet; thence east and parallel to the north boundary of the south half of said Section 22, to the east boundary of said Section 22; thence north along said east boundary to the north boundary thereof; thence continue north along the east boundary of Sections 15, 10, and 3, all in T26S, R23E to the NW corner of Section 2, T26S, R23E; thence west along said south boundary of Section 34, T25S, R23E to the southwest corner of Section 34, T25S, R23E; thence north along the west boundaries of Sections 34, 27, 22, 15, and 10, T25S, R23E to the center line of the Withlacoochee River and the Polk - Sumter County line and the Point of Termination.

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PROPOSED TERRITORIAL BOUNDARY LINE ADDITION BETWEEN
TAMPA ELECTRIC COMPANY
AND
WITHLACOCHEE RIVER ELECTRIC COOPERATIVE, INC.

1. Dade City Area

This portion of the Company's service area is described as that area lying within the boundaries of municipal corporations, including Dade City, San Antonio and St. Leo, and the surrounding areas within the boundary lines shown on the attached Exhibit A. The proposed territorial amended boundary line is described as follows:

ONE PASCO CENTER-PHASE 1 DEVELOPMENT

Commence at the northwest corner of the east 1/2 of Section 9, T25S, R20E; thence south along the west boundary of the east 1/2 of said Section 9 to the southerly right of way line of the former Seaboard Coastline Railroad for the point of beginning where the territorial boundary goes through ONE PASCO CENTER-PHASE 1 development as recorded in Plat Book 25, pages 28-31 of the Pasco County Public Records; thence northeasterly along said ONE PASCO CENTER-PHASE 1 development's north boundary to the northeasterly corner of proposed parcel 3E-PHASE 3, according to the preliminary plan site geometry as prepared by Proctor and Redfern (formerly Housel & Associates) - Project Number 850901; being N 72° 18' 46" E a distance of 453.89 feet from the Point of Beginning for said ONE PASCO CENTER-PHASE 1 as recorded in Plat Book 25, pages 28-31 of the Pasco County Public Records; thence southerly along the easterly boundary of said proposed parcel 38, to the northeasterly corner of parcel 7 of said ONE PASCO CENTER-PHASE 1; thence southerly along the easterly boundaries of parcels 7, 6, 5, 4, 3, 2 and the southerly extension of the east boundary of parcel 1 of said ONE PASCO CENTER-PHASE 1, to the northerly right of way line of State Road 52; thence westerly along said right of way line to the west boundary of the east 1/2 of Section 9, T25S, R20E and the point of termination.

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PROPOSED TERRITORIAL BOUNDARY LINE ADDITION BETWEEN
TAMPA ELECTRIC COMPANY
AND
WITHLACOCHEE RIVER ELECTRIC COOPERATIVE, INC.

1. Dade City Area

This portion of the Company's service area is described as that area lying within the boundaries of municipal corporations, including Dade City, San Antonio and St. Leo, and the surrounding areas within the boundary lines shown on the attached Exhibit A. The proposed territorial amended boundary line is described as follows:

CANNON RANCH DEVELOPMENT

Commence at the northwest corner of the northeast 1/4 of Section 16, T25S, R20E; thence east along the north boundary of said Section 16, to a point 1008.27 feet west of the northeast corner of said Section 16; and the point of beginning where the territorial boundary goes through the proposed Cannon Ranch Development according to the Master Development Phasing Plan, prepared by Florida Technical Services, Inc. and Ekistics Design Studio, February 2, 1988, revised May 31, 1989 - project number 020186.2; thence north 109.97 feet to a point in the southeast 1/4 of Section 9, T25S, R20E, being 1008.27 feet west and 109.97 feet north of the southeast corner of said Section 9; thence east 410.60 feet to a point 597.67 feet west and 109.97 feet north of the southeast corner of said Section 9; thence north 1222.99 feet to a point 1320.26 feet north and 599.85 feet west of the southeast corner of said Section 9; thence northeast 1131.51 feet to a point on the east boundary of said Section 9 being 2279.67 feet north of the southeast corner of said Section 9; thence east 1368.00 feet to the east boundary of the west 1/4 of Section 10, T25S, R20E, being 2279.53 feet north of the southeast corner of said west 1/4 of Section 10; thence southeast 1080.62 feet to the westerly right of way line of the main proposed collector road, being 1632.41 feet north and 865.43 feet east of the southeast corner of said west 1/4 of Section 10; thence southeasterly along the westerly right of way line of said proposed collector road to the point of tangency, being 531.70 feet east and 310.69 feet north of the southwest corner of the east 1/2 of said Section 10; thence southwest 1938.32 feet to a point in the west 1/2 of Section 15, T25S, R20E, being 1459.97 feet south and 1118.45 feet east of the northeast corner of the west 1/4 of said Section 15; thence east 1597.22 feet to a point 1361.78 feet north and 1426.67 feet west of the southeast corner of the north 1/2 of said Section 15; thence southeast 1077.79 feet to the easterly right of way line of the proposed southeast spur of the collector road, being 616.86 feet north and 647.75 feet west of the southeast corner of the north 1/2 of said Section 15; thence northeasterly along the easterly right of way line of said proposed southeast spur of the collector road to a point in the west 1/2 of Section 14, T25S, R20E, being 907.86 feet east and 1333.13 feet north of the southwest corner of the north 1/2 of said Section 14; thence southeast 986.35 feet to a point 662.06 feet north and 1630.74 feet east of the southwest corner of the north 1/2 of said Section 14, thence east 1049.18 feet to the westerly right of way line of State Road 577, being 662.06 feet north and 2679.92 feet east of the southwest corner of the north 1/2 of said Section 14; thence northeasterly along the westerly right of way of said State Road 577 to a point on the east boundary of the west 1/2 of the east 1/2 of said Section 14, being 1626.89 feet south of the northeast corner of said west 1/2 of the east 1/2 of said Section 14, and the point of termination through said Cannon Ranch Development.

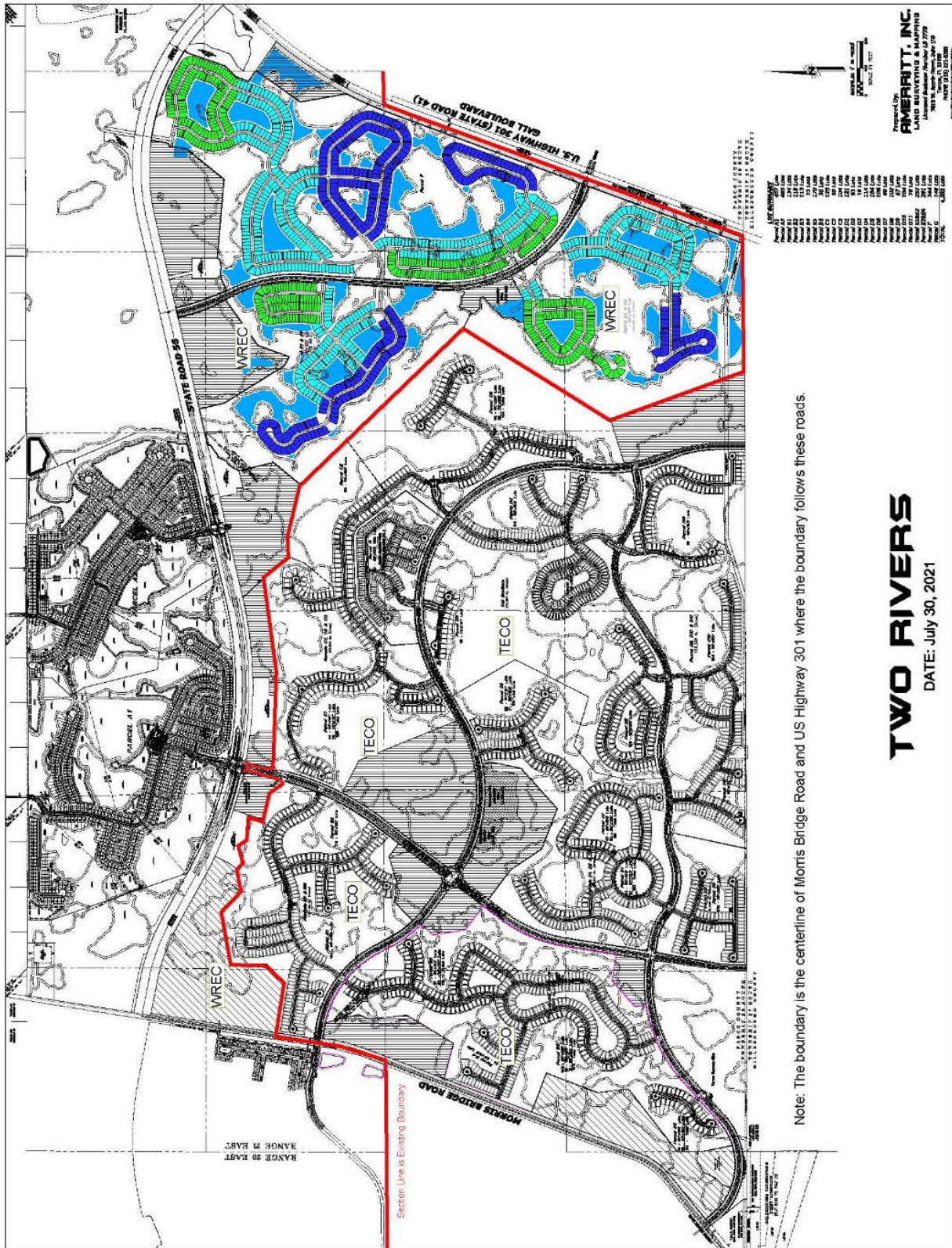
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PROPOSED TERRITORIAL BOUNDARY LINE ADDITION BETWEEN
TAMPA ELECTRIC COMPANY
AND
WITHLACOOCHEE RIVER ELECTRIC COOPERATIVE, INC.

1. Folk County Area

Begin at the SW corner of Section 31, T26S, R23E; thence north along the west boundaries of Sections 31 and 30, T26S, R23E to the NW corner of the south half of the north half of Section 30, T26S, R23E; thence east along the north boundary of said south half of the north half to the east boundary of said Section 30; thence continue east along the north boundary of the south half of the north half of Section 29, T26S, R23E, to the east boundary of the west half of said Section 29; thence north along said east boundary to the north boundary of said Section 29; thence continue north along the west boundary of the east half of Section 20, T26S, R23E, to the north boundary of the south half of said Section 20; thence east along said north boundary to the east boundary of said Section 20; thence continue east along the north boundary of the south half of Section 21, T26S, R23E, to the intersection with the centerline of Sherrouse Road; thence easterly along the centerline of said road to another intersection with the north boundary of the south half of Section 21, T26S, R23E; thence east along said north boundary to a point 769.80 feet west of the intersection of said north boundary and the westerly right-of-way U.S. Highway 98 (SR 700 & 35) and make a turn to the right and run southeasterly on a line parallel with and 553.84 feet from the said westerly right-of-way of U.S. Highway 98 to the south boundary of said Section 21; thence east along south boundary to the east boundary of said Section 21; thence continue east along the south boundary of Section 22, T26S, R23E to the east boundary of the west half of the west half of said Section 22; thence north along said east boundary 2616.65 feet; thence east and parallel to the north boundary of the south half of said Section 22, to the east boundary of said Section 22; thence north along said east boundary to the north boundary thereof; thence continue north along the east boundary of Sections 15, 10, and 3, all in T26S, R23E to the NW corner of Section 2, T26S, R23E; thence west along said south boundary of Section 34, T25S, R23E to the southwest corner of Section 34, T25S, R23E; thence north along the west boundaries of Sections 34, 27, 22, 15, and 10, T25S, R23E to the center line of the Withlacoochee River and the Folk - Sumter County line and the Point of Termination.

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Note: The boundary is the centerline of Morris Bridge Road and US Highway 301 where the boundary follows these roads.

TWO RIVERS
 DATE: July 30, 2021