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Commission Conference Agenda
September 12, 2023

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Item 1

State of Florida



Public Service Commission

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

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

DATE: August 29, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Day, Mallow,^{CH}
Deas, Fogleman)
Office of the General Counsel (Sparks, Imig)^{ACH}

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 9/12/2023 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
20230034-TX	Skywire, LLC	8984
20230086-TX	Cincinnati Bell Extended Territories LLC d/b/a altafiber connected services	8985

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

Item 2

State of Florida



Public Service Commission

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

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

DATE: August 29, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Stiller, Dose) *JSC*
Division of Accounting and Finance (Andrews, Norris) *ALM*
Division of Economics (Draper) *EJD*
Division of Engineering (King) *TB*

RE: Docket No. 20230017-EI – Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Ian and Nicole, by Florida Power & Light Company.

AGENDA: 09/12/23 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: 11/01/23 (date by which Petition must be ruled on pursuant to Section 120.542, F.S.)

SPECIAL INSTRUCTIONS: None

Case Background

On January 23, 2023, Florida Power & Light Company (FPL) filed a Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Ian and Nicole. The Commission granted FPL's petition by Order No. PSC-2023-0110-PCO-EI, issued March 3, 2023, and approved a consolidated interim storm surcharge to cover restoration costs and to replenish the storm reserve. The Commission ordered that this docket remain open pending final disposition (true-up) of storm costs. Intervention by the Office of Public Counsel (OPC) was acknowledged by Order No. PSC-2023-0081-FOF-EI.

On July 28, 2023, FPL filed in this docket a petition for a temporary waiver of or variance from Rule 25-6.0143(1)(g), Florida Administrative Code (F.A.C.) (Petition). Rule 25-6.0143, F.A.C., addresses electric utilities' use of accumulated provision accounts 228.1, 228.2, and 228.4.¹ Paragraph 1(g) of Rule 25-6.0143 requires that under the Incremental Cost and Capitalization Approach methodology for determining the allowable costs to be charged to cover storm-related damages, certain storm costs may be charged to Account 228.1 only after review and approval by the Commission. Before the Commission makes this determination, the utility may defer the costs if they were incurred prior to June 1 of the year following the storm event.

Rule 25-6.0143(1)(g), F.A.C., further requires that:

By September 30 a utility must file a petition for the disposition of any costs deferred prior to June 1 of the year following the storm event giving rise to the deferred costs.

Hurricanes Ian and Nicole impacted FPL's service area in September and November 2022, respectively. Because the costs for damage from those storms were incurred prior to June 1, 2023, FPL is required by Rule 25-6.0143(1)(g) to file its petition and documentation concerning disposition of deferred storm costs related to Hurricanes Ian and Nicole not later than September 30, 2023.

FPL is asking the Commission for a temporary variance from or waiver of the September 30 filing requirement. FPL asks that it be allowed until December 31, 2023, to file its petition and supporting documentation.

Notice of FPL's Petition was published in the August 1, 2023, edition of the *Florida Administrative Register*, Vol. 49, No. 148 as required by Section 120.542(6), Florida Statutes (F.S.). No one commented on the Petition within the 14-day comment period provided by Rule 28-104.003, F.A.C. Staff issued one data request, to which FPL filed responses on August 11, 2023. The Commission must approve or deny the Petition by November 1, 2023, under Section 120.542(8), F.S., or the Petition would be deemed approved.

The purpose of this recommendation is to address only the request for waiver or variance. The Commission has jurisdiction under Sections 120.542, 350.115, 366.04, 366.05, and 366.06, F.S.

¹ Investor-owned electric utilities are required to maintain their accounts and records in conformity with the Uniform System of Accounts for Public Utilities and Licensees. Rule 25-6.014(1), F.A.C.

Discussion of Issues

Issue 1: Should the Commission grant Florida Power & Light Company's Petition for a temporary waiver or variance from Rule 25-6.0143(1)(g), F.A.C.?

Recommendation: Yes. The Commission should grant Florida Power & Light Company's Petition for a temporary variance or waiver of Rule 25-6.0143(1)(g), F.A.C., to allow FPL to file its petition and documentation supporting the review and true-up of the total actual incremental storm restoration costs related to Hurricanes Ian and Nicole no later than December 31, 2023. (Stiller, Andrews)

Staff Analysis: FPL is requesting that the Commission grant it a temporary variance from or waiver of Rule 25-6.0143(1)(g), F.A.C. Pursuant to this rule provision, as explained in the Case Background, FPL is required to file its petition for disposition of certain deferred costs by September 30, 2023.

Legal Standard for Rule Variances or Waivers

Pursuant to Section 120.542(2), F.S., the Commission is required to grant waivers and variances from its rules "when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness." A "substantial hardship" is defined by statute as a "demonstrated economic, technological, legal, or other type of hardship."

Rule 25-6.0143, F.A.C., implements Section 350.115, F.S., which allows the Commission to prescribe by rule uniform systems and classifications of accounts for each type of regulated company and approve or establish adequate, fair, and reasonable depreciation rates and charges. The rule also implements Section 366.04(2)(a), F.S., which gives the Commission power over electric utilities to prescribe uniform systems and classifications of accounts.

FPL's Petition

FPL stated that application of Rule 25-6.0143(1)(g), F.A.C., to require the preparation and filing of the petition and documentation supporting the review and true-up of the total actual incremental storm restoration costs related to Hurricanes Ian and Nicole no later than September 30, 2023, will create a substantial hardship. FPL stated that Hurricane Ian was a powerful Category 4 storm that impacted more than 2.1 million customers, with Hurricane Nicole following soon thereafter as a Category 1 and impacting 480,000 customers. FPL noted that it mobilized a workforce numbering in the tens of thousands to restore service to these customers. In its petition for recovery of incremental storm restoration costs in this docket, FPL initially estimated storm-related costs for Hurricanes Ian and Nicole to be \$1.3 billion and \$175.8 million, respectively. FPL stated that because of the large volume of invoices and financial records corresponding to these storm-related costs, it "was not able to finalize the internally approved storm restoration invoices until mid-2023."

Also due to the magnitude of restoration costs related to the damage caused by Hurricane Ian, FPL is required to engage an outside auditor to complete an audit of its requested restoration costs prior to submitting its petition for final disposition. Specifically, in a settlement agreement

approved by the Commission in 2019, FPL committed to “engage an independent outside audit firm to conduct an audit of the Company's filed recoverable storm costs of the first named tropical system named by the National Hurricane Center for which claimed damages exceed \$250 million.”² Hurricane Ian is that first named tropical system. FPL represented that because it does not anticipate this audit being complete until November 2023, it cannot comply with the September 30 deadline and the requirement to complete the independent audit prior to filing for final disposition of storm restoration costs.

FPL also argued that no anticipated party to the proceedings and no customers will be prejudiced by granting its Petition for temporary variance or waiver. Further, FPL alleged that the requested temporary variance or waiver does not contravene the rule’s implementing statutes.

FPL represented that OPC has no objection to the relief requested in the Petition for temporary variance or waiver, and asks that the Commission expedite consideration of the Petition and consider it at the September 2023 Commission Conference.

Purpose of the Underlying Statutes

Sections 350.115 and 366.04(2)(a), F.S., give the Commission power to prescribe by rule uniform systems and classifications of accounts and to approve or establish adequate, fair, and reasonable depreciation rates and charges for electric utilities. The purpose of the September 30 filing date is to facilitate a timely review of storm restoration costs and afford the Commission adequate oversight on the use of Commission-approved storm reserves (Account 228.1). Often the initial filings made pursuant to Rule 25-6.0143, F.A.C., reflect estimated costs used to implement an interim cost recovery mechanism. As such, staff believes that the purpose of Sections 350.115 and 366.04(2), F.S., will be unaffected by granting the requested temporary variance or waiver.

Further, no anticipated party to any proceedings and no customers will be prejudiced or adversely affected by granting FPL’s Petition for temporary variance or waiver. For these reasons, the purpose of the statutes will still be achieved as required by Section 120.542, F.S., if FPL’s Petition for temporary variance or waiver is granted.

Substantial Hardship

The facts presented by FPL to demonstrate a substantial hardship focus on the volume of work FPL needs to complete before filing its petition and supporting documentation for final storm restoration cost disposition. The cost estimates for restoration related to Hurricane Ian exceed by five times the threshold to trigger an independent audit. The consumption of utility staff and management time to take on this appreciable amount of work was increased by the addition of restoration costs related to Hurricane Nicole. All of this internal work needed to be completed before FPL could then turn to the task of an independent audit. The audit, in turn, must be completed before FPL can then file for final disposition.

² Order No. PSC-2019-0319-S-EI, issued August 1, 2019, in Docket No. 20180049-EI, *In re: Evaluation of storm restoration costs for Florida Power & Light Company related to Hurricane Irma*.

The Commission considered and granted a similar request for waiver or variance from FPL in 2021.³ In that docket, the enhanced workload arose from a rate case hearing that was proceeding on a contemporaneous track as storm recovery. As noted in the order granting FPL's petition in that docket, the Commission has in the past granted petitions for variance or waiver on the basis that application of a rule's filing deadline created substantial hardship because of utility staffing limitations caused by the specific circumstances alleged in those petitions.⁴ Under the specific facts presented here, staff believes that FPL has demonstrated substantial hardship under Section 120.542, F.S.

Conclusion

For the reasons explained above, the Commission should grant FPL's Petition for a temporary variance or waiver of Rule 25-6.0143(1)(g), F.A.C., to allow FPL to file its petition for certain deferred costs no later than December 31, 2023.

³ Order No. PSC-2021-0361-PAA-EI, issued September 16, 2021, in Docket No. 20210128-EI, *In re Petition for temporary variance from or waiver of Rule 25-6.0143(1)(g), F.A.C., to file for prudence review of Florida Power & Light Company storm costs related to Hurricane Isaias and Tropical Storm Eta, and for prudence review and recovery of Gulf Power Company storms costs related to Hurricane Sally and Hurricane Zeta.*

⁴ Order No. PSC-2019-0067-GU, issued February 22, 2019, in Docket No. 20180230-GU, *In re: Petition for temporary waiver of Rule 25-7.045, F.A.C., by Florida Public Utilities Company*; Order No. PSC-12-0354-PAA-GU, issued July 9, 2012, in Docket No. 20120081-GU, *In re: Petition for waiver of requirement of Rule 25-7.045(8)(a), F.A.C., to file depreciation study within five years from date of filing previous study, and for authorization to file next depreciation study by August 17, 2012, by Florida Division of Chesapeake Utilities Corporation*; Order No. PSC-2002-0242-PAA-EI, issued February 25, 2002, in Docket No. 20011611-EI, *In Re: Petition for Waiver of Depreciation Study Filing Requirement in Rule 25-6.0436(8)(a), F.A.C., by Florida Power Corporation*; Order No. PSC-01-2376-PAA-EI, issued December 10, 2001, in Docket No. 20011088-EI, *In re: Florida Power & Light Company*

Issue 2: Should this docket be closed?

Recommendation: No. Disposition of this petition for a waiver or variance serves only to extend the deadline for the Florida Power & Light Company to submit its petition and documentation supporting the review and true-up of the total actual incremental storm restoration costs related to Hurricanes Ian and Nicole. This docket should remain open until that review is complete and the Commission has approved the final disposition. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued granting the petition and this docket should remain open. (Stiller)

Staff Analysis: No. Disposition of this petition for a waiver or variance serves only to extend the deadline for the Florida Power & Light Company to submit its petition and documentation supporting the review and true-up of the total actual incremental storm restoration costs related to Hurricanes Ian and Nicole. This docket should remain open until that review is complete and the Commission has approved the final true-up. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued granting the petition and this docket should remain open.

Item 3

State of Florida



Public Service Commission

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

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

DATE: August 29, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Nave, Wooten) *CH*
Office of the General Counsel (Sparks) *ACH*

RE: Docket No. 20230076-TP – 2024 State certification under 47 C.F.R. §54.313 and §54.314, annual reporting requirements for high-cost recipients and certification of support for eligible telecommunications carriers.

AGENDA: 09/12/23 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: 10/02/23 (Filing deadline with the Federal Communications Commission and the Universal Service Administrative Company)

SPECIAL INSTRUCTIONS: None

Case Background

One of the primary principles of universal service support as described in the Telecommunications Act of 1996 (Telecom Act) is for consumers in all regions to have reasonably comparable access to telecommunications and information services at reasonably comparable rates.¹ The federal universal service high-cost program is now designed to help ensure that consumers in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service, both fixed and mobile, at rates that are reasonably comparable to those in urban areas.² The program supports

¹ 47 U.S.C. §254(b)(3) (2023)

² FCC, “Universal Service for High Cost Areas - Connect America Fund,” updated July 7, 2023, <https://www.fcc.gov/general/universal-service-high-cost-areas-connect-america-fund>, accessed August 17, 2023.

the goal of universal service by allowing eligible telecommunications carriers (ETCs) to recover some of the costs of service provision in high-cost areas from the federal Universal Service Fund. Carriers can be designated as ETCs in Florida by the Florida Public Service Commission (Commission) or the Federal Communications Commission (FCC).

In order for carriers to receive federal universal service high-cost support, state commissions must annually certify to the Universal Service Administrative Company (USAC) and to the FCC that each carrier complies with the requirements of Section 254(e) of the Telecom Act by using high-cost support “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”³ Certification will be filed online by the Commission through USAC’s online portal. Immediately following online certification, the USAC website will automatically generate a letter that may be submitted electronically to the FCC to satisfy the submission requirements of 47 C.F.R. §54.314(c). In order for a carrier to be eligible for high-cost universal service support for all of calendar year 2024, certification must be submitted by the Commission by October 2, 2023.⁴

The Commission has jurisdiction pursuant to 47 C.F.R. §54.313 and §54.314, as well as Chapter 364, F.S.

³ 47 C.F.R. §54.314(a) (2023)

⁴ 47 C.F.R. §54.314(d) (2023)

Discussion of Issues

Issue 1: Should the Commission certify to USAC and the FCC that Bright House Networks Information Services (Florida), LLC; CenturyLink of Florida, Inc.; Consolidated Communications of Florida Company; Frontier Florida LLC; ITS Telecommunications Systems, LLC d/b/a Blue Stream Fiber; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom; and Smart City Telecommunications LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support?

Recommendation: Yes. The Commission should certify to USAC and the FCC that Bright House Networks Information Services (Florida), LLC; CenturyLink of Florida, Inc.; Consolidated Communications of Florida Company; Frontier Florida LLC; ITS Telecommunications Systems, LLC d/b/a Blue Stream Fiber; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom; and Smart City Telecommunications LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support. (Nave, Wooten)

Staff Analysis: Bright House Networks Information Services (Florida), LLC; CenturyLink of Florida, Inc.; Consolidated Communications of Florida Company; Frontier Florida LLC; ITS Telecommunications Systems, LLC d/b/a Blue Stream Fiber; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom; and Smart City Telecommunications LLC d/b/a Smart City Telecom are seeking certification from the Commission under 47 C.F.R §54.314 and 47 U.S.C. §254(e) to receive federal high-cost universal service support. Each carrier has filed an affidavit attesting that it has used the federal high-cost support received in the preceding calendar year and will use the federal high-cost support received in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Staff recommends that the Commission certify to USAC and the FCC that these carriers are eligible to receive federal high-cost support. Based on previous years' data and projected changes in support, staff estimates that the amount of 2024 high-cost support that these carriers may receive in Florida will be approximately \$14 million.⁵

⁵ This estimate was obtained using data from the USAC high-cost funding data disbursement search tool, and it only includes carriers designated as ETCs by the Commission.

Issue 2: Should this docket be closed?

Recommendation: Yes. This docket should be closed upon issuance of a Final Order.
(Sparks)

Staff Analysis: This docket should be closed upon issuance of a Final Order.

Item 4

State of Florida



Public Service Commission

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

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

DATE: August 29, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Bethea, Bruce, Hudson) *CB*
Division of Accounting and Finance (Norris, Sowards) *ALM*
Division of Engineering (Lewis, Ramos) *TB*
Office of the General Counsel (Thompson, Sandy) *JSC*

RE: Docket No. 20220201-WS – Request by Florida Community Water Systems, Inc. for a revenue-neutral rate restructuring in Brevard, Lake, and Sumter Counties.

AGENDA: 09/12/23 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Florida Community Water System, Inc. (FCWS or utility) owns 10 water and 4 wastewater systems in Brevard, Lake, and Sumter counties. Service is provided to approximately 2,005 water and 390 wastewater customers. According to FCWS's 2022 Annual Report, the combined net operating revenues were \$1,138,981 for water and \$221,940 for wastewater. FCWS also recorded combined net operating expenses of \$1,001,103 for water and \$202,664 for wastewater.

The 10 water systems are Black Bear Waterworks, Inc. (Black Bear); Brendenwood Waterworks, Inc. (Brendenwood); Brevard Waterworks (Brevard); Harbor Waterworks, Inc. (Harbor); Jumper Creek Utility Company (Jumper Creek); Lake Idlewild Utility Company (Lake Idlewild); Lakeside Waterworks, Inc. (Lakeside); Pine Harbour Waterworks, Inc. (Pine Harbour); Raintree

Waterworks, Inc. (Raintree); and The Woods Utility Company (The Woods). Four of these systems also have wastewater systems: Harbor, Jumper Creek, Lakeside, and The Woods. In February of 2022, the Commission acknowledged the corporate reorganization and name change of these systems to FCWS.¹ The corporate reorganization resulted in no change in ownership or control of the utilities, and each FCWS system continued to charge its own Commission-approved rates and charges.

On November 14, 2022, FCWS filed an application for a revenue-neutral rate restructuring limited proceeding for the purpose of consolidating the rates of the 14 systems into uniform rates. In its application, FCWS states that there is a wide disparity in rates among the systems. The utility believes that implementing uniform rates will result in a more equitable disbursement of operating costs among the customer group. Several of the systems have had multiple rate cases before the Commission due to increased capital requirements, increased operating expenses, and decreased consumption. The following table reflects the rate proceedings in which rates were last established for FCWS's respective systems.

Last Proceedings Establishing Rates for FCWS Systems

County	Former Utility Name	Order	Issuance Date
Lake	Black Bear Waterworks, Inc.	N/A	N/A
Lake	Brendenwood Waterworks, Inc.	PSC-2022-0043-PAA-WU	January 26, 2022
Brevard	Brevard Waterworks, Inc.	PSC-2016-0421-PAA-WU	October 3, 2016
Lake	Harbor Waterworks, Inc.	N/A	N/A
Sumter	Jumper Creek Utility Company	PSC-2019-0145-PAA-WS	April 23, 2019
Lake	Lake Idlewild Utility Company	PSC-2019-0142-PAA-WU	April 22, 2019
Lake	Lakeside Waterworks, Inc.	PSC-2019-0528-PAA-WU	December 17, 2019
Lake	Pine Harbour Waterworks, Inc.	PSC-2018-0552-PAA-WU	November 19, 2018
Lake	Raintree Waterworks, Inc.	PSC-2019-0459-PAA-WU	October 24, 2019
Sumter	The Woods Utility Company	PSC-2020-0087-PAA-WS	March 25, 2020

Rule 25-30.445(6), Florida Administrative Code (F.A.C.), provides that a limited proceeding will not be allowed if the utility has not had a rate case within seven years of the date of the petition for limited proceeding is filed with the Commission. Black Bear and Harbor have not had a rate case before the Commission. Therefore, on December 5, 2022, FCWS sought a partial variance or waiver of a requirement of Rule 25-30.445, F.A.C. On March 24, 2023, the Commission

¹Order No. PSC-2022-0095-FOF-WS, issued February 21, 2022, in Docket No. 20210192-WS, *In re: Joint application for acknowledgment of corporate reorganization and approval of name changes on Certificate No. 654-W in Lake County from Black Bear Waterworks, Inc., Certificate No. 339-W in Lake County from Brendenwood Waterworks, Inc., Certificate No. 002-W in Brevard County from Brevard Waterworks, Inc., Certificate Nos. 522-W and 565-S in Lake County from Harbor Waterworks, Inc., Certificate Nos. 667-W and 507-S in Sumter County from Jumper Creek Utility Company, Certificate No. 531-W in Lake County from Lake Idlewild Utility Company, Certificate Nos. 567-W and 494-S in Lake County from Lakeside Waterworks, Inc., Certificate No. 450-W in Lake County from Pine Harbour Waterworks, Inc., Certificate No. 539-W in Lake County from Raintree Waterworks, Inc., Certificate Nos. 507-W and 441-S in Sumter County from The Woods Utility Company to Florida Community Water Systems, Inc.*

approved FCWS's petition to waive Rule 25-30.445(6), F.A.C., for the limited purpose requested.² As a result, FCWS met the filing requirements of Rule 25-30.445, F.A.C.

Subsequent to the approval of the rule waiver, on April 17, 2023, FCWS filed revised schedules using 2022 operating revenues for the purpose of the revenue-neutral rate restructuring rather than 2021 operating revenues. Based on staff's earnings surveillance review of the 2021 Annual Report and the 2022 Annual Report, it was determined that the Lakeside water system was overearning for 2021 and the Black Bear, Brevard, Lakeside, and Harbor water systems were overearning for 2022. By letter dated May 18, 2023, and revised letter dated July 31, 2023, FCWS proposed a refund for the disposition of the overearnings.³ Consistent with the proposed refund, the revised schedules reflected the removal of the overearnings for 2022.

In each of the system's last rate cases, before the consolidation into FCWS, the Commission found the overall quality of service to be satisfactory except for The Woods and Brevard. In its 2019 rate case, the Commission found The Woods' overall quality of service to be unsatisfactory for noncompliance with the Department of Environmental Protection's (DEP) lead and copper limits and ordered a penalty of a 100 basis point reduction to the authorized return on equity (ROE).⁴ The Woods was also ordered to engage with customers and the Office of Public Counsel (OPC) to work on improving the quality of its product. Additionally, The Woods was ordered to file status reports detailing the actions it took to meet the DEP's requirements and communications until DEP rescinded its additional monitoring. The Woods filed its required status reports and on August 31, 2021, notified the Commission that the utility was in compliance with DEP standards and was placed on triennial monitoring by DEP.⁵ While the Commission found Brevard's water product to be satisfactory, it found its water facilities to be marginal in its 2014 rate case due to excessive unaccounted for water.⁶ The Commission recognized that this was a known and ongoing issue that Brevard has attempted to address and ordered Brevard to explore solutions with OPC and the County. Thereafter, the parties conducted three customer meetings and discussed Brevard's proposed solution to replace its water distribution system. However, Brevard's customers objected to the replacement project and its potential rate impact. The Commission determined that the replacement project was not economically feasible.⁷ As stated above, Black Bear and Harbor have not had a rate case before the Commission, and therefore, have not previously had a quality of service determination.

Staff reviewed each system's customer complaint record from June 2018 through May 2023. There were four complaints filed with the Commission regarding secondary water quality standards, specifically cloudy water and low water pressure for The Woods, which were considered during its last rate case. The DEP also received one secondary water complaint for The Woods shortly after its last rate case was processed. The Woods installed several automatic

² Order No. PSC-2023-0113-PAA-WS, issued March 24, 2023, in the instant docket.

³ Document No. 03279-2023, dated May 18, 2023, and Document No. 04451-2023, dated July 31, 2023

⁴ Order No. PSC-2020-0087-PAA-WS, issued on March 25, 2020, in Docket No. 20190125-WS, *In re: Application for staff-assisted rate case in Sumter County by The Woods Utility*.

⁵ Document No. 09959-2021, dated August 31, 2021

⁶ Order No. PSC-15-0329-PAA-WU, issued August 14, 2015, in Docket No. 20140186-WU, *In re: Application for staff-assisted rate case in Brevard County by Brevard Waterworks, Inc.*

⁷ Order No. PSC-16-0421-PAA-WU, issued October 3, 2016, in Docket No. 20140186-WU, *In re: Application for staff-assisted rate case in Brevard County by Brevard Waterworks, Inc.*

flushers throughout The Woods' distribution system and a second high service pump in an effort to resolve these issues. The Woods passed its most recent DEP secondary water standard test on March 28, 2021.

DEP also received two secondary water complaints for Brendenwood regarding cloudy water in 2020. DEP determined that Brendenwood's cloudy water was attributed to trapped air in the system and was not harmful. Brendenwood passed its most recent DEP secondary water standard test on March 12, 2021. All of the other systems that make up FCWS system are passing DEP's secondary water standards.

A customer meeting was held virtually on June 20, 2023. No customers participated in the virtual meeting. One comment was filed in the docket file pertaining to water quality, which identified the water as being brown in color and the customer also reported low water pressure regarding The Woods.

On July 20, 2023, staff filed its recommendation for this docket which included a proposed refund of 2021 overearnings for the Black Bear system. However, by email dated July 27, 2023, FCWS requested a deferral in order to reevaluate Black Bear's overearnings for 2021.⁸ The utility noted that 2021 overearnings for the Black Bear system had previously been addressed by the Commission.

This recommendation addresses the utility's proposed refunds for the disposition of overearnings and the request for a revenue-neutral uniform rate restructuring limited proceeding. The Commission has jurisdiction to consider this matter pursuant to Sections 367.0822 and 367.0816, Florida Statutes (F.S.).

⁸ Document No. 04345-2023, dated July 28, 2023.

Discussion of Issues

Issue 1: Should the Commission approve the refunds proposed by Florida Community Water Systems, Inc. to address overearnings?

Recommendation: Yes. FCWS should make the refunds outlined below. Pursuant to Rule 25-30.360, F.A.C., the refund should be made within 90 days of the Commission’s order. During the processing of the refund, monthly reports on the status of the refund should be made by the 20th of the following month. In addition, a preliminary report should be made within 30 days after the date the refund is completed and again 90 days thereafter. A final report should be made after all administrative aspects of the refund are completed.

Former System Name	2021		2022	
	\$ Amt	%	\$ Amt	%
Black Bear Water System	N/A	N/A	\$ 4,720	3.08%
Brevard Water System	N/A	N/A	\$ 4,078	2.62%
Lakeside Water System				
Water	N/A	N/A	\$ 8,456	9.79%
Wastewater	\$ 7,403	8.43%	\$ 5,564	6.30%
Harbor Water System	\$ 44,012	9.50%	\$ 23,041	4.92%

(Norris)

Staff Analysis: Staff reviewed the 2021 Annual Reports filed in 2022 for each of the individual systems that comprise FCWS and identified systems that revealed possible overearnings. Over several months, staff requested and obtained updated data necessary to evaluate the utility’s financial position to evaluate the likelihood of continued overearnings, and to examine the level of operating revenues necessary to support ongoing utility operations. Staff’s analysis also incorporated the utility’s needs for continuing capital improvements and operating expenses. In consideration and timing of the instant docket, staff also included the review of the 2022 Annual Reports filed in 2023 for the consolidated FCWS systems in its final analysis.

FCWS proposed to make refunds to address possible overearnings by letter dated May 18, 2023. The utility subsequently modified its proposal by letter dated July 31, 2023.⁹ As explained in the letter, there was a previous overearnings, based on the review of Black Bear’s 2020 Annual Report, approved by the Commission in Order No. PSC-2021-0461-PAA-WU and applied to Black Bear’s 2021 revenues.¹⁰ The overearnings analysis for 2021 should have made an adjustment to reflect the refund. When this adjustment is taken into consideration, there is no refund for 2021. The utility styled its proposals as a settlement and stated that the Office of

⁹ Document Nos. 03279-2023 and 04451-2023.

¹⁰ Order No. PSC-2021-0461-PAA-WU, issued December 15, 2021, in Docket No. 20210174-WU, *In re: Joint motion requesting Commission approval of settlement agreement by the Office of Public Counsel and Black Bear Waterworks, Inc.*

Public Counsel had expressed its agreement with the proposed refunds, including the modified analysis for Black Bear. Specifically, the utility agreed to make the refunds outlined below.

**Table 1-1
 Overearning Refunds**

Former System Name	2021		2022	
	\$ Amt	%	\$ Amt	%
Black Bear Water System	N/A	N/A	\$ 4,720	3.08%
Brevard Water System	N/A	N/A	\$ 4,078	2.62%
Lakeside Water System				
Water	N/A	N/A	\$ 8,456	9.79%
Wastewater	\$ 7,403	8.43%	\$ 5,564	6.30%
Harbor Water System	\$ 44,012	9.50%	\$ 23,041	4.92%

Staff believes that FCWS’s proposal is a reasonable resolution because it would address the possible overearnings on a prospective basis as part of the revenue neutral rate restructuring addressed in Issue 2. Further, staff believes that it is in the public interest for the Commission to approve the refunds because it promotes administrative efficiency, avoiding the time and expense of a formal earnings investigation.

Staff notes that this recommendation is consistent with other Commission decisions regarding possible overearnings.¹¹ Staff will continue to monitor the earnings of the utility, and if any subsequent overearnings are identified, staff may open a formal earnings investigation. Pursuant to Rule 25-30.360, F.A.C., the refund should be made within 90 days of the Commission’s order. During the processing of the refund, monthly reports on the status of the refund should be made by the 20th of the following month. In addition, a preliminary report should be made within 30 days after the date the refund is completed and again 90 days thereafter. A final report should be made after all administrative aspects of the refund are completed.

¹¹ Order Nos. PSC-2015-0173-PAA-WS, issued May 5, 2015, in Docket No. 20150069, *In re: Settlement proposal for possible overearnings by Southlake Utilities, Inc. in Lake County*; PSC-11-0012-PAA-SU, issued January 4, 2011, in Docket No. 100446-SU, *In re: Settlement proposal for possible overearnings by Tierra Verde Utilities, Inc. in Pinellas County*; PSC-10-0680-PAA-SU, issued November 15, 2010 in Docket No. 100379-SU, *In re: Settlement proposal for possible overearnings by Mid-County Services, Inc. in Pinellas County*; and PSC-05-0956-PAA-SU, issued October 7, 2005, in Docket No. 050540-SU, *In re: Settlement offer for possible overearnings in Marion County by BFF Corp.*

Issue 2: Should Florida Community Water System's request for a revenue-neutral rate restructuring limited proceeding for uniform rates be approved?

Recommendation: Yes. The Commission should approve FCWS's request for a revenue-neutral rate restructuring limited proceeding for uniform rates. (Hudson, Bruce, Bethea)

Staff Analysis: FCWS indicated that the implementation of uniform rates would result in a more equitable disbursement of operating costs among the customers. FCWS believes it would be more efficient to have a uniform rate structure that would allow it to consolidate the accounting records and financial information into one set of books. In addition, according to the utility, the water rates for the Harbor system are extremely low, and compounded with the large size of the lots, creates an excessive amount of water use. The average residential demand for the Harbor system is approximately 28,000 gallons per month. The Harbor system is exceeding the permitted withdrawal limits of its consumptive use permit. FCWS has exhausted efforts in trying to implement water conserving measures for the Harbor system. The utility, with consolidated water rates, believes it would be able to implement rates that will promote conservation for the Harbor system.

In prior dockets, the Commission has approved rate consolidation because it encourages large utilities to acquire small utilities; recognizes economies of scale attributable to large utilities with respect to combined operations; results in cost savings associated with regulatory filings; and produces rate stability across all systems. In evaluating consolidated rates in prior decisions, the Commission has set a subsidy limit and evaluated the consolidated rates at the average residential demand for the individual systems.

The last subsidy limit was set by the Commission in 2017 at \$14.38 for water and wastewater.¹² To put the \$14.38 subsidy limit in perspective, if the limit is indexed from 2017 through 2023, using the Commission-approved indexes,¹³ it results in a subsidy limit of \$17.27 for the instant docket. In determining the average residential demand in the past, the Commission has removed an outlier that would skew the actual average residential demand.¹⁴ The average water residential demand, excluding Harbor, is approximately 6,000 gallons. In this case, the Harbor water system's average residential demand is approximately 28,000 gallons a month. Therefore, it should be removed in determining the average residential demand for the subsidy analysis and the average water residential demand of approximately 6,000 gallons, excluding Harbor, should be used to evaluate subsidies for water. As reflected in Table 2-1, the Harbor system is the only system paying a subsidy for water using staff's recommended rates. The subsidy is below the subsidy limit of \$17.27.

¹² Order No. PSC-2017-0361-FOF-WS, issued September 25, 2017, in Docket No. 20160101-WS, *In re: Application for increase in water and wastewater in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida*, p. 191.

¹³ Order No. PSC-2022-0438-PAA-WS, issued December 27, 2022, in Docket No. 20220005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*

¹⁴ *Id.*

**Table 2-1
 Residential Water Bill Comparison
 Based on 6,000 Gallons a Month**

System	Bill at Stand Alone Rate	Bill at Consolidated Rate	Subsidy Paid (Received)
Black Bear	\$41.06	\$26.60	(\$14.46)
Brendenwood	\$32.35	\$26.60	(\$5.75)
Brevard	\$98.62	\$26.60	(\$72.02)
Harbor	\$17.61	\$26.60	\$8.99
Jumper Creek	\$75.87	\$26.60	(\$49.27)
Lake Idlewild	\$38.98	\$26.60	(\$12.38)
Lakeside	\$56.86	\$26.60	(\$30.26)
Pine Harbor	\$52.51	\$26.60	(\$25.91)
Raintree	\$32.17	\$26.60	(\$5.57)
The Woods	\$79.51	\$26.60	(\$52.91)

For wastewater, the Commission has evaluated the subsidies at the gallonage cap.¹⁵ FCWS proposed a gallonage cap of 6,000 gallons. Staff’s recommended wastewater rate structure for FCWS includes a gallonage cap of 6,000 gallons. As reflected in Table 2-2, Harbor and Lakeside are both paying subsidies. Both subsidies are below the subsidy limit of \$17.27.

**Table 2-2
 Residential Wastewater Bill Comparison
 Based on 6,000 Gallons a Month**

System	Bill at Stand Alone Rate	Bill at Consolidated Rate	Subsidy Paid (Received)
Harbor	\$64.87	\$79.08	\$14.21
Jumper Creek	\$92.00	\$79.08	(\$12.92)
Lakeside	\$77.83	\$79.08	\$1.25
The Woods	\$102.75	\$79.08	(\$23.67)

Based on the above, the proposed consolidation of rates for both water and wastewater results in rates that are below the subsidy limit for each individual system, based on average usage. This is consistent with the Commission’s previous analysis methodology for similar dockets.¹⁶ As discussed previously, there are many benefits of rate consolidation. In addition, the consolidation

¹⁵ Order No. PSC-2017-0361-FOF-WS, p. 191.

¹⁶ *Id.* and Order No. Order Nos. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, *In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.*; and PSC-12-0102-FOF-WS, issued March 5, 2012, in Docket No. 100330-WS, *In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.*

would allow the Commission to better address the high usage at the Harbor system. As a result, the Commission should approve FCWS request for a revenue-neutral rate restructuring limited proceeding for uniform rates.

Issue 3: What is the appropriate revenue requirement for restructuring the rates?

Recommendation: The appropriate revenue requirement for restructuring the rates is \$1,216,076 for water and \$248,255 for wastewater. (Hudson, Bruce, Bethea)

Staff Analysis: In its application, FCWS requests the rate restructuring for uniform rates be revenue neutral. In its revised filing, the utility proposed to use the operating revenues that are currently being generated by the existing rates of each system less the 2022 operating revenues associated with overearning that were proposed for the refunds. In addition, FCWS requested rate case expense to cover the cost incurred in this proceeding.¹⁷

Subsequent to its revised filing, the utility was approved for price index rate adjustments for all 14 systems, effective June 3, 2023. In order to maintain the approved index rate adjustments, the operating revenues should be annualized using the rates effective June 3, 2023, and the 2022 billing data from the billing analysis. FCWS billing analyses are generated based on base facility charges.¹⁸ Therefore, when there is a rate change in a month, the prorated base facility charge shows up as two bills with a proration of usage for each in the billing analysis. The additional bills will overstate the operating revenues. The prorated usage will understate the operating revenues for the systems with tiered rates structures because the total usage would not be reflected in the appropriate tier. FCWS had a price indexed rate change in July of 2022. Staff adjusted the billing analyses to correct the issues that take place when there is a rate change during the month. Annualizing the operating revenues using the rates effective June 3, 2023, and the revised billing analysis resulted in operating revenues of \$1,252,002 for water and \$252,987 for wastewater.

The utility requested rate case expense to cover the filing fee, legal expenses, customer noticing, newspaper noticing, and travel expense to attend the Commission Conference. FCWS paid a filing fee of \$8,900. The utility also requested recovery of \$1,312 in legal expenses related to the rule waiver request. FCWS is required by Rule 25-22.0407, F.A.C., to mail notices of the case overview, final rates, and four-year rate reduction. Staff calculated noticing costs to be \$9,306. The utility calculated travel expense to the Commission Conference and back, as well as one night of lodging to be \$350. Staff has examined the requested expenses and supporting documentation and recommends total rate case expense of \$19,868 (\$8,900 + \$1,312 + \$9,306 + \$350). The recommended total rate case expense should be amortized over four years, which represents an annual expense of \$4,967 (\$19,868 / 4 Years). The annual expense grossed-up for regulatory assessments fees (RAFs) results in \$5,201 that should be recovered in rates. Based on the number of customers, the rate case expense should be allocated 84 percent or \$4,369 to water and 16 percent or \$832 to wastewater.¹⁹

The annualized 2022 operating revenues of \$1,252,002 for water and \$252,987 for wastewater should be increased by \$4,369 for water and \$832 for wastewater for the rate case expense. In addition, as mentioned in Issue 1, the total 2022 overearnings of \$40,295 for water and \$5,564

¹⁷ Document No. 03373-2073, dated May 25, 2023

¹⁸ Document No. 03077-2023, dated May 4, 2023

¹⁹ There are 2,005 water customers and 390 wastewater customers for total of 2,395 customers. (water 2,005/2,395 = 84%; wastewater 390/2,395 = 16%)

Date: August 29, 2023

for wastewater should be removed. Based on the above, the appropriate revenue requirement for restructuring the rates is \$1,216,076 ($\$1,252,002 + \$4,369 - \$40,295$) for water and \$248,255 ($\$252,987 + \$832 - \$5,564$) for wastewater.

Issue 4: What are the appropriate rate structures and rates for the water and wastewater systems?

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

Staff Analysis: For its consolidated water rates, FCWS proposed a rate structure which consists of recovering 40 percent of the operating revenues from the base facility charge (BFC) and a three-tier inclining block rate structure. The rate blocks are: (1) 0-4,000 gallons, (2) 4,001-10,000 gallons, and (3) all usage in excess of 10,000 gallons per month. The general service rate structure consists of a BFC and uniform gallonage charge. For wastewater, the utility proposed a rate structure which consists of recovering 60 percent of the operating revenues from a uniform BFC for all residential meter sizes and a gallonage charge with a 6,000 gallon cap. For general service, FCWS proposed customers be billed a BFC by meter size and a gallonage charge that is 1.2 times higher than the residential gallonage charge.

Water Rates

FCWS provides water service to approximately 1,987 residential customers and 18 general service customers. A review of the consolidated billing data indicates that approximately 9 percent of the residential bills had zero gallons, which signifies a non-seasonal consolidated customer base. The average consolidated water demand, including Harbor, is 14,265 gallons per month. Staff performed an analysis of the utility's consolidated billing data in order to evaluate the appropriate rate structure for the residential water customers. The goal of the evaluation was to select the rate design parameters that: (1) produce the recommended revenue requirement; (2) equitably distribute cost recovery among the utility's customers; (3) establish the appropriate non-discretionary usage threshold for restricting repression; and (4) implement, where appropriate, water conserving rate structures consistent with Commission practice.

Due to the water usage of Harbor, staff recommends that 30 percent of the water revenue be generated from the BFC rather than the utility's proposed 40 percent. The 30 percent BFC allocation will provide sufficient revenues to design gallonage charges that send the appropriate pricing signals to customers who are using above the non-discretionary level. The average people per household served by the water system is 2.5; therefore, based on the number of people per household, 50 gallons per day per person, and the number of days per month, the non-discretionary usage threshold should be 4,000 gallons per month.²⁰

²⁰The overall average people per household was obtained from the average of the counties at the following websites:
<https://www.census.gov/quickfacts/fact/table/brevardcountyflorida/PST045222>;
<https://www.census.gov/quickfacts/fact/table/lakecountyflorida/PST045222>;
<https://www.census.gov/quickfacts/fact/table/sumtercountyflorida/PST045222>;

Staff recommends a BFC and a three-tier inclining block rate structure, which includes separate gallonage charges for non-discretionary and discretionary usage for residential water customers. The rate blocks are: (1) 0-4,000 gallons; (2) 4,001-10,000 gallons; and (3) all usage in excess of 10,000 gallons per month. This rate structure sends the appropriate pricing signals because it targets customers with high consumption levels and minimizes price increases for customers at non-discretionary levels. In addition, the third tier provides an additional pricing signal to customers using in excess of 10,000 gallons of water per month, which represents approximately 71 percent of the usage, which is primarily the Harbor system. General service customers should be billed a BFC and a gallonage charge.

For Harbor, approximately 87 percent of the total residential consumption is discretionary and, therefore, subject to the effects of repression. A repression adjustment quantifies changes in consumption patterns in response to an increase in price. Customers will typically reduce their discretionary consumption in response to price changes, while non-discretionary consumption remains relatively unresponsive to price changes. The residential consumption can be expected to decline by 86,686,000 gallons for the Harbor system resulting in an anticipated consolidated average residential demand of 10,750 gallons per month. Staff recommends a 25 percent reduction in test year residential gallons for rate setting purposes. As a result, the corresponding reductions to the Harbor expenses are \$18,576 for purchased power expense, \$3,219 for chemical expense, and \$1,027 for RAFs to reflect the anticipated repression, which results in a post-repression revenue requirement of \$1,193,254.

Wastewater

FCWS provides wastewater service to approximately 385 residential customers and 5 general service customers. Staff reviewed the utility's consolidated billing data to evaluate various BFC cost recovery percentages and gallonage caps for the residential customers. The goal of the evaluation was to select the rate design parameters that: (1) produce the approved revenue requirement; (2) equitably distribute cost recovery among the utility's customers; and (3) implement a gallonage cap that considers approximately the amount of water that may return to the wastewater system.

Consistent with Commission practice, staff recommends 50 percent of the wastewater revenue be generated from the BFC due to the capital intensive nature of wastewater plants. FCWS proposed 60 percent of the wastewater revenue be generated from the BFC. A 60 percent allocation for the BFC would be more appropriate if there were seasonality. However, on a consolidated basis, there is no seasonality necessitating a need to ensure revenue stability with the higher allocation for the BFC.

Staff agrees with the wastewater gallonage cap of 6,000 for residential service proposed by the utility. Typically, monthly residential wastewater gallonage caps are set at 6,000, 8,000, or 10,000. The wastewater gallonage cap recognizes that not all water used by the residential customers is returned to the wastewater system. It is Commission practice to set the wastewater gallonage cap at approximately 80 percent of residential water sold.²¹ Based on review of the

²¹ PSC-2020-0088-PAA-SU, issued March 25, 2020, in Docket No. 20190116-SU, *In re: Application for staff-assisted rate case in Brevard County, and request for interim rate increase by Merritt Island Utility Company.*; Order No. PSC-2017-0361-FOF-WS, issued September 25, 2017, in Docket No. 20160101-WS, *In re: Application*

consolidated billing analysis, approximately 80 percent of the residential gallons are captured at the 24,000 gallon consumption level because of the high average water demand of the Harbor system. Staff believes the 6,000 gallonage cap is more appropriate as proposed by FCWS.

For wastewater, staff recommends a uniform BFC for all residential meter sizes and a gallonage charge with a 6,000 gallon cap. General service should be billed a BFC by meter size and a gallonage charge that is 1.2 times higher than the residential gallonage charge. In addition, for the Harbor system, the excessive usage is primarily irrigation and the vast majority of the customers are on a septic tank. As a result, staff believes no repression adjustment is necessary to the wastewater billing determinants for the expected reduction in water demand for the Harbor system.

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

for increase in water and wastewater in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida, p. 204.

Issue 5: What is the appropriate amount of rate case expense and what is the appropriate amount by which rates should be reduced four years after the published effective date to reflect the removal of the amortized rate case expense?

Recommendation: The appropriate amount of rate case expense is \$19,868. The total rate case expense should be amortized over four years, resulting in an annual expense of \$4,967. The rates should be reduced as shown on Schedule Nos. 1-A and 1-B, to remove rate case expense grossed-up for RAFs and amortized over a four-year period. In addition, for prior unamortized rate case expense, the rates should be reduced as shown on Schedule No. 2. Pursuant to Section 367.081(8), F.S., the decrease in rates should become effective immediately following the expiration of the rate case expense recovery period. FCWS should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, the utility should file separate data for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Sewards, Hudson)

Staff Analysis: Section 367.081(8), F.S., requires that the rates be reduced immediately following the expiration of the recovery period by the amount of the rate case expense previously included in rates. The reduction will reflect the removal of revenue associated with the amortization of rate case expense and the gross-up for RAFs, as shown on Schedule Nos. 1-A and 1-B.

In addition, in prior dockets, The Woods and Brendenwood were allowed a four-year amortization period for rate case expense of \$226 and \$301, respectively. The amortization period has not expired. The amortization of prior rate case expense is set to expire on April 21, 2024, for The Woods and March 3, 2026, for Brendenwood. The dollar amount of the rate reductions at the end of the amortization period were defined in each system's respective order. The rate reductions were calculated based on the percentage of rate case expense to the revenue requirement and was applied to the Commission-approved rates. With the recommendation of consolidation, the prior amortization rate case expense is embedded in the consolidated rates. The amount of rate case expense for both The Woods and Brendenwood relative to the consolidated revenue requirement results in a lesser amount of rate reduction compared to the amount on a stand-alone basis. Using the rate reductions defined in the prior orders for The Woods and Brendenwood would result in more rate case expense being removed than appropriate. Therefore, staff has recalculated the amount of the reductions based on the recommended consolidation. The amount of the rate reductions should be applied to the consolidated rates, which will be applicable to all systems, at the end of the respective amortization period for The Woods and Brendenwood systems are shown on Schedule No. 2.

Staff recommends that the rates be reduced as shown on Schedule Nos. 1-A and 1-B, to remove rate case expense grossed-up for RAFs and amortized over a four-year period. In addition, for prior unamortized rate case expense, the rates should be reduced as shown on Schedule No. 2. The decrease in rates should become effective immediately following the expiration of the rate case expense recovery period, pursuant to Section 367.081(8), F.S. FCWS should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for

the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, the utility should file separate data for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Issue 6: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, a consummating order should be issued. This docket should remain open to allow staff to verify completion of the refund discussed in Issue 1. Furthermore, the docket should remain open for staff's verification that the revised tariff sheets and customer notices have been filed by the utility and approved by staff. Upon staff's approval of the tariff sheets and customer notices, along with staff's completion of the refund discussed in Issue 1, this docket should be closed administratively if no adjustments are necessary. (Thompson, Sandy)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, a consummating order should be issued. This docket should remain open to allow staff to verify completion of the refund discussed in Issue 1. Furthermore, the docket should remain open for staff's verification that the revised tariff sheets and customer notices have been filed by the utility and approved by staff. Upon staff's approval of the tariff sheets and customer notices, along with staff's completion of the refund discussed in Issue 1, this docket should be closed administratively if no adjustments are necessary.

BLACK BEAR WATERWORKS, INC.		SCHEDULE NO. 1-A		
TEST YEAR ENDED DECEMBER 31, 2022		DOCKET NO. 20220201-WS		
MONTHLY WATER RATES				
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	N/A	\$17.28	\$13.64	\$0.05
3/4"	N/A	\$25.91	\$20.46	\$0.08
1"	N/A	\$43.19	\$34.10	\$0.13
1-1/2"	N/A	\$86.38	\$68.20	\$0.25
2"	N/A	\$138.21	\$109.12	\$0.40
3"	N/A	\$276.42	\$218.24	\$0.80
4"	N/A	\$431.91	\$341.00	\$1.25
6"	N/A	\$860.97	\$682.00	\$2.50
8"	N/A	\$1,377.55	\$1,091.20	\$4.00
10"	N/A	N/A	\$1,568.60	\$5.75
All Meter Sizes - Residential and General Service	\$34.59	N/A	N/A	N/A
Charge per 1,000 gallons - Residential and General Service				
0-5,000 Gallons	\$0.00	N/A	N/A	N/A
5,001 - 10,000 Gallons	\$6.47	N/A	N/A	N/A
Over 10,000 Gallons	\$9.24	N/A	N/A	N/A
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	N/A	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	N/A	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	N/A	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service				
	N/A	\$2.98	\$2.95	\$0.01
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$34.59	\$21.68	\$21.04	
6,000 Gallons	\$41.06	\$24.98	\$26.60	
8,000 Gallons	\$54.00	\$28.28	\$32.16	

BRENDEWOOD WATERWORKS, INC.		SCHEDULE NO. 1-A		
TEST YEAR ENDED DECEMBER 31, 2022		DOCKET NO. 20220201-WS		
MONTHLY WATER RATES				
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$16.11	\$17.28	\$13.64	\$0.05
3/4"	\$24.17	\$25.91	\$20.46	\$0.08
1"	\$40.28	\$43.19	\$34.10	\$0.20
1-1/2"	\$80.55	\$86.38	\$68.20	\$0.25
2"	\$128.88	\$138.21	\$109.12	\$0.40
3"	\$257.76	\$276.42	\$218.24	\$0.80
4"	\$402.75	\$431.91	\$341.00	\$1.25
6"	\$805.50	\$863.81	\$682.00	\$2.50
8"	N/A	N/A	\$1,091.20	\$4.00
10"	N/A	N/A	\$1,568.60	\$5.75
Charge per 1,000 gallons - Residential				
0-5,000 Gallons	\$2.60	N/A	N/A	N/A
5,001 - 10,000 Gallons	\$3.24	N/A	N/A	N/A
Over 10,000 Gallons	\$5.84	N/A	N/A	N/A
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	N/A	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	N/A	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	N/A	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service				
	\$4.07	\$3.16	\$2.95	\$0.01
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$26.51	\$21.68	\$21.04	
6,000 Gallons	\$32.35	\$24.98	\$26.60	
8,000 Gallons	\$38.83	\$28.28	\$32.16	

BREVARD WATERWORKS, INC.		SCHEDULE NO. 1-A		
TEST YEAR ENDED DECEMBER 31, 2022		DOCKET NO. 20220201-WS		
MONTHLY WATER RATES				
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$19.98	\$17.28	\$13.64	\$0.05
3/4"	\$29.97	\$25.91	\$20.46	\$0.08
1"	\$49.95	\$43.19	\$34.10	\$0.13
1-1/2"	\$99.90	\$86.38	\$68.20	\$0.25
2"	\$159.84	\$138.21	\$109.12	\$0.40
3"	\$319.68	\$276.42	\$218.24	\$0.80
4"	\$499.50	\$431.91	\$341.00	\$1.25
6"	\$999.00	\$863.81	\$682.00	\$2.50
8"	\$1,598.40	\$1,382.10	\$1,091.20	\$4.00
10"	\$2,297.70	\$1,986.76	\$1,568.60	\$5.75
Charge per 1,000 gallons - Residential				
0-4,000 Gallons	\$11.26	N/A	N/A	N/A
Over 4,000 Gallons	\$16.80	N/A	N/A	N/A
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	N/A	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	N/A	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	N/A	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service				
	\$12.25	\$3.16	\$2.95	\$0.01
Private Fire Protection				
2"	\$13.32	\$11.52	\$9.09	\$0.03
3"	\$26.64	\$23.03	\$18.19	\$0.07
4"	\$41.63	\$35.99	\$28.42	\$0.10
6"	\$83.25	\$71.98	\$56.83	\$0.21
8"	\$133.20	\$115.17	\$90.93	\$0.33
10"	\$191.48	\$165.56	\$130.72	\$0.48
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$65.02	\$21.68	\$21.04	
6,000 Gallons	\$98.62	\$24.98	\$26.60	
8,000 Gallons	\$132.22	\$28.28	\$32.16	

HARBOR WATERWORKS, INC.		SCHEDULE NO. 1-A		
TEST YEAR ENDED DECEMBER 31, 2022		DOCKET NO. 20220201-WS		
MONTHLY WATER RATES				
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$9.51	\$17.28	\$13.64	\$0.05
3/4"	\$14.27	\$25.91	\$20.46	\$0.08
1"	\$23.78	\$43.19	\$34.10	\$0.13
1-1/2"	\$47.55	\$86.38	\$68.20	\$0.25
2"	\$76.08	\$138.21	\$109.12	\$0.40
3"	\$152.16	\$276.42	\$218.24	\$0.80
4"	\$237.75	\$431.91	\$341.00	\$1.25
6"	\$475.50	\$863.81	\$682.00	\$2.50
8"	N/A	\$1,382.10	\$1,091.20	\$4.00
10"	N/A	\$1,986.76	\$1,568.60	\$5.75
Charge per 1,000 gallons - Residential and General Service	\$1.35	N/A	N/A	N/A
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	N/A	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	N/A	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	N/A	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service	\$1.35	\$3.16	\$2.95	\$0.01
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$14.91	\$21.68	\$21.04	
6,000 Gallons	\$17.61	\$24.98	\$26.60	
8,000 Gallons	\$20.31	\$28.28	\$32.16	

JUMPER CREEK UTILITY COMPANY			SCHEDULE NO. 1-A	
TEST YEAR ENDED DECEMBER 31, 2022			DOCKET NO. 20220201-WS	
MONTHLY WATER RATES				
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$23.55	\$17.28	\$13.64	\$0.05
3/4"	\$35.33	\$25.91	\$20.46	\$0.08
1"	\$58.88	\$43.19	\$34.10	\$0.13
1-1/2"	\$117.75	\$86.38	\$68.20	\$0.25
2"	\$188.40	\$138.21	\$109.12	\$0.40
3"	\$376.80	\$276.42	\$218.24	\$0.80
4"	\$588.75	\$431.91	\$341.00	\$1.25
6"	\$1,177.50	\$863.81	\$682.00	\$2.50
8"	\$1,884.00	\$1,382.10	\$1,091.20	\$4.00
10"	N/A	\$1,986.76	\$1,568.60	\$5.75
Charge per 1,000 gallons - Residential and General Service	\$8.72	N/A	N/A	N/A
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	N/A	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	N/A	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	N/A	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service	\$8.72	\$3.16	\$2.95	\$0.01
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$58.43	\$21.68	\$21.04	
6,000 Gallons	\$75.87	\$24.98	\$26.60	
8,000 Gallons	\$93.31	\$28.28	\$32.16	

LAKE IDLEWILD UTILITY COMPANY TEST YEAR ENDED DECEMBER 31, 2022 MONTHLY WATER RATES			SCHEDULE NO. 1-A DOCKET NO. 20220201-WS	
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$21.04	\$17.28	\$13.64	\$0.05
3/4"	\$31.56	\$25.91	\$20.46	\$0.08
1"	\$52.60	\$43.19	\$34.10	\$0.13
1-1/2"	\$105.20	\$86.38	\$68.20	\$0.25
2"	\$168.32	\$138.21	\$109.12	\$0.40
3"	\$336.64	\$276.42	\$218.24	\$0.80
4"	\$526.00	\$431.91	\$341.00	\$1.25
6"	\$1,052.00	\$863.81	\$682.00	\$2.50
8"	N/A	N/A	\$1,091.20	\$4.00
10"	N/A	N/A	\$1,568.60	\$5.75
Charge per 1,000 gallons - Residential				
0-3,000 Gallons	\$2.75	N/A	N/A	N/A
Over 3,000 Gallons	\$3.23	N/A	N/A	N/A
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	N/A	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	N/A	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	N/A	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service	\$3.16	\$3.16	\$2.95	\$0.01
Private Fire Protection				
2"	\$14.03	\$11.52	\$9.09	\$0.03
3"	\$28.05	\$23.03	\$18.19	\$0.07
4"	\$43.83	\$35.99	\$28.42	\$0.10
6"	\$87.67	\$71.98	\$56.83	\$0.21
8"	\$140.27	\$115.17	\$90.93	\$0.33
10"	\$201.63	\$165.56	\$130.72	\$0.48
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$32.52	\$21.68	\$21.04	
6,000 Gallons	\$38.98	\$24.98	\$26.60	
8,000 Gallons	\$45.44	\$28.28	\$32.16	

LAKESIDE WATERWORKS, INC.		SCHEDULE NO. 1-A		
TEST YEAR ENDED DECEMBER 31, 2022		DOCKET NO. 20220201-WS		
MONTHLY WATER RATES				
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$19.16	\$17.28	\$13.64	\$0.05
3/4"	\$28.74	\$25.91	\$20.46	\$0.08
1"	\$47.90	\$43.19	\$34.10	\$0.13
1-1/2"	\$95.80	\$86.38	\$68.20	\$0.25
2"	\$153.28	\$138.21	\$109.12	\$0.40
3"	\$306.56	\$276.42	\$218.24	\$0.80
4"	\$479.00	\$431.91	\$341.00	\$1.25
6"	\$958.00	\$863.81	\$682.00	\$2.50
8"	N/A	N/A	\$1,091.20	\$4.00
10"	N/A	N/A	\$1,568.60	\$5.75
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	\$5.77	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	\$7.31	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	\$12.81	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service				
	\$7.55	\$3.16	\$2.95	\$0.01
Irrigation Service				
Base Facility Charge by Meter Size				
0 - 4,000 Gallons	\$5.77	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	\$7.31	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	\$12.81	\$2.20	\$3.71	\$0.01
Private Fire Protection				
2"	\$12.77	\$11.52	\$9.09	\$0.03
3"	\$25.55	\$23.03	\$18.19	\$0.07
4"	\$39.92	\$35.99	\$28.42	\$0.10
6"	\$79.83	\$71.98	\$56.83	\$0.21
8"	N/A	\$115.17	\$90.93	\$0.33
10"	N/A	\$165.56	\$130.72	\$0.48
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$42.24	\$21.68	\$21.04	
6,000 Gallons	\$56.86	\$24.98	\$26.60	
8,000 Gallons	\$71.48	\$28.28	\$32.16	

PINE HARBOUR WATERWORKS, INC.		SCHEDULE NO. 1-A		
TEST YEAR ENDED DECEMBER 31, 2022		DOCKET NO. 20220201-WS		
MONTHLY WATER RATES				
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$19.33	\$17.28	\$13.64	\$0.05
3/4"	\$29.00	\$25.91	\$20.46	\$0.08
1"	\$48.33	\$43.19	\$34.10	\$0.13
1-1/2"	\$96.65	\$86.38	\$68.20	\$0.25
2"	\$154.64	\$138.21	\$109.12	\$0.40
3"	\$309.28	\$276.42	\$218.24	\$0.80
4"	\$483.25	\$431.91	\$341.00	\$1.25
6"	N/A	N/A	\$682.00	\$2.50
8"	N/A	N/A	\$1,091.20	\$4.00
10"	N/A	N/A	\$1,568.60	\$5.75
Charge per 1,000 gallons - Residential				
0-4,000 Gallons	\$4.81	N/A	N/A	N/A
Over 4,000 Gallons	\$6.97	N/A	N/A	N/A
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	N/A	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	N/A	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	N/A	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service				
	\$5.67	\$3.16	\$2.95	\$1.00
Private Fire Protection				
2"	\$12.89	\$11.52	\$9.09	\$0.03
3"	\$25.77	\$23.03	\$18.19	\$0.07
4"	\$40.27	\$35.99	\$28.42	\$0.10
6"	N/A	\$71.98	\$56.83	\$0.21
8"	N/A	\$115.17	\$90.93	\$0.33
10"	N/A	\$165.56	\$130.72	\$0.48
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$38.57	\$21.68	\$21.04	
6,000 Gallons	\$52.51	\$24.98	\$26.60	
8,000 Gallons	\$66.45	\$28.28	\$32.16	

RAINTREE WATERWORKS, INC. TEST YEAR ENDED DECEMBER 31, 2022 MONTHLY WATER RATES		SCHEDULE NO. 1-A DOCKET NO. 20220201-WS		
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$18.46	\$17.28	\$13.64	\$0.05
3/4"	\$27.69	\$25.91	\$20.46	\$0.08
1"	\$46.15	\$43.19	\$34.10	\$0.13
1-1/2"	\$92.30	\$86.38	\$68.20	\$0.25
2"	\$147.68	\$138.21	\$109.12	\$0.40
3"	\$295.36	\$276.42	\$218.24	\$0.80
4"	\$461.50	\$431.91	\$341.00	\$1.25
6"	\$923.00	\$863.81	\$682.00	\$2.50
8"	N/A	N/A	\$1,091.20	\$4.00
10"	N/A	N/A	\$1,568.60	\$5.75
Charge per 1,000 gallons - Residential				
0 - 3,000 Gallons	\$2.22	N/A	N/A	N/A
3,001 - 8,000 Gallons	\$2.35	N/A	N/A	N/A
Over 8,000 Gallons	\$3.53	N/A	N/A	N/A
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	N/A	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	N/A	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	N/A	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service				
	\$2.90	\$3.16	\$2.95	\$0.01
Private Fire Protection				
2"	\$12.31	\$11.52	\$9.09	\$0.03
3"	\$24.61	\$23.03	\$18.19	\$0.07
4"	\$38.46	\$35.99	\$28.42	\$0.10
6"	\$76.92	\$71.98	\$56.83	\$0.21
8"	N/A	\$115.17	\$90.93	\$0.33
10"	N/A	\$165.56	\$130.72	\$0.48
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$27.47	\$21.68	\$21.04	
6,000 Gallons	\$32.17	\$24.98	\$26.60	
8,000 Gallons	\$36.87	\$28.28	\$32.16	

THE WOODS UTILITY COMPANY TEST YEAR ENDED DECEMBER 31, 2022 MONTHLY WATER RATES		SCHEDULE NO. 1-A DOCKET NO. 20220201-WS		
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential and General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$26.47	\$17.28	\$13.64	\$0.05
3/4"	\$39.71	\$25.91	\$20.46	\$0.08
1"	\$66.18	\$43.19	\$34.10	\$0.13
1-1/2"	\$132.35	\$86.38	\$68.20	\$0.25
2"	\$211.76	\$138.21	\$109.12	\$0.40
3"	\$423.52	\$276.42	\$218.24	\$0.80
4"	\$661.75	\$431.91	\$341.00	\$1.25
6"	\$1,323.50	\$863.81	\$682.00	\$2.50
8"	\$2,117.60	\$1,382.10	\$1,091.20	\$4.00
10"	\$3,044.05	\$1,986.76	\$1,568.60	\$5.75
Charge per 1,000 gallons - Residential				
0 - 6,000 Gallons	\$8.84	N/A	N/A	N/A
6,001 - 12,000 Gallons	\$13.25	N/A	N/A	N/A
Over 12,000 Gallons	\$17.67	N/A	N/A	N/A
Charge per 1,000 gallons - Residential				
0 - 4,000 Gallons	N/A	\$1.10	\$1.85	\$0.01
4,001 - 10,000 Gallons	N/A	\$1.65	\$2.78	\$0.01
Over 10,000 Gallons	N/A	\$2.20	\$3.71	\$0.01
Charge per 1,000 gallons - General Service	\$10.06	\$3.16	\$2.95	\$0.01
Private Fire Protection				
2"	\$17.65	\$11.52	\$9.09	\$0.03
3"	\$35.29	\$23.03	\$18.19	\$0.07
4"	\$55.15	\$35.99	\$28.42	\$0.10
6"	\$110.29	\$71.98	\$56.83	\$0.21
8"	\$176.47	\$115.17	\$90.93	\$0.33
10"	\$253.67	\$165.56	\$130.72	\$0.48
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$61.83	\$21.68	\$21.04	
6,000 Gallons	\$79.51	\$24.98	\$26.60	
8,000 Gallons	\$106.01	\$28.28	\$32.16	

HARBOR WATERWORKS, INC.		SCHEDULE NO. 1-B		
TEST YEAR ENDED DECEMBER 31, 2022		DOCKET NO. 20220201-WS		
MONTHLY WASTEWATER RATES				
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential Service				
All Meter Sizes	\$32.83	\$28.26	\$24.30	\$0.08
Charge per 1,000 gallons - Residential 6,000 gallonage cap	\$5.34	\$6.83	\$9.13	\$0.03
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$32.83	\$28.26	\$24.30	\$0.08
3/4"	\$49.25	\$42.40	\$36.45	\$0.12
1"	\$82.08	\$70.66	\$60.75	\$0.20
1-1/2"	\$164.15	\$141.32	\$121.50	\$0.40
2"	\$262.64	\$226.12	\$194.40	\$0.64
3"	\$525.28	\$452.24	\$388.80	\$1.28
4"	\$820.75	\$706.62	\$607.50	\$2.00
6"	\$1,641.50	\$1,413.24	\$1,215.00	\$4.00
8"	N/A	N/A	\$1,944.00	\$6.40
10"	N/A	N/A	\$2,794.50	\$9.20
Charge per 1,000 gallons - General Service	\$6.42	\$8.20	\$10.95	\$0.04
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$54.19	\$55.58	\$60.82	
6,000 Gallons	\$64.87	\$69.24	\$79.08	
8,000 Gallons	\$64.87	\$69.24	\$79.08	

LAKESIDE WATERWORKS, INC. TEST YEAR ENDED DECEMBER 31, 2022 MONTHLY WASTEWATER RATES			SCHEDULE NO. 1-B DOCKET NO. 20220201-WS	
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential Service				
All Meter Sizes	\$19.57	\$28.26	\$24.30	\$0.08
Charge per 1,000 gallons - Residential 6,000 gallonage cap	\$9.71	\$6.83	\$9.13	\$0.03
General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$19.57	\$28.26	\$24.30	\$0.08
3/4"	\$29.36	\$42.40	\$36.45	\$0.12
1"	\$48.93	\$70.66	\$60.75	\$0.20
1-1/2"	\$97.85	\$141.32	\$121.50	\$0.40
2"	\$156.56	\$226.12	\$194.40	\$0.64
3"	\$313.12	\$452.24	\$388.80	\$1.28
4"	\$489.25	\$706.62	\$607.50	\$2.00
6"	\$978.50	\$1,413.00	\$1,215.00	\$4.00
8"	N/A	N/A	\$1,944.00	\$6.40
10"	N/A	N/A	\$2,794.50	\$9.20
Charge per 1,000 gallons - General Service	\$11.65	\$8.20	\$10.95	\$0.04
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$58.41	\$55.58	\$60.82	
6,000 Gallons	\$77.83	\$69.24	\$79.08	
8,000 Gallons	\$77.83	\$69.24	\$79.08	

JUMPER CREEK UTILITY COMPANY TEST YEAR ENDED DECEMBER 31, 2022 MONTHLY WASTEWATER RATES			SCHEDULE NO. 1-B DOCKET NO. 20220201-WS	
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential Service				
All Meter Sizes	\$36.92	\$28.26	\$24.30	\$0.08
Charge per 1,000 gallons - Residential 6,000 gallonage cap	\$9.18	\$6.83	\$9.13	\$0.03
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$36.92	\$28.26	\$24.30	\$0.08
3/4"	\$55.38	\$42.40	\$36.45	\$0.12
1"	\$92.30	\$70.66	\$60.75	\$0.20
1-1/2"	\$184.60	\$141.32	\$121.50	\$0.40
2"	\$295.36	\$226.12	\$194.40	\$0.64
3"	\$590.72	\$452.24	\$388.80	\$1.28
4"	\$923.00	\$706.62	\$607.50	\$2.00
6"	\$1,846.00	\$1,413.24	\$1,215.00	\$4.00
8"	\$2,953.60	\$2,261.18	\$1,944.00	\$6.40
10"	N/A	N/A	\$2,794.50	\$9.20
Charge per 1,000 gallons - General Service	\$11.02	\$8.20	\$10.95	\$0.04
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$64.46	\$55.58	\$60.82	
6,000 Gallons	\$92.00	\$69.24	\$79.08	
8,000 Gallons	\$92.00	\$69.24	\$79.08	

THE WOODS UTILITY COMPANY TEST YEAR ENDED DECEMBER 31, 2022 MONTHLY WASTEWATER RATES		SCHEDULE NO. 1-B DOCKET NO. 20220201-WS		
	Utility Current Rates	Utility Proposed Rates	Staff Recommended Rates	4 Year Rate Reduction
Residential Service				
All Meter Sizes	\$42.45	\$28.26	\$24.30	\$0.08
Charge per 1,000 gallons - Residential 6,000 gallonage cap	\$10.05	\$6.83	\$9.13	\$0.03
General Service				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$42.45	\$28.26	\$24.30	\$0.08
3/4"	\$66.68	\$42.40	\$36.45	\$0.12
1"	\$106.13	\$70.66	\$60.75	\$0.20
1-1/2"	\$212.25	\$141.32	\$121.50	\$0.40
2"	\$339.60	\$226.12	\$194.40	\$0.64
3"	\$679.20	\$452.24	\$388.80	\$1.28
4"	\$1,061.25	\$706.62	\$607.50	\$2.00
6"	\$2,122.50	\$1,413.00	\$1,215.00	\$4.00
8"	\$3,396.00	\$2,260.80	\$1,944.00	\$6.40
10"	\$4,881.75	\$3,249.90	\$2,794.50	\$9.20
Charge per 1,000 gallons - General Service	\$12.08	\$8.20	\$10.95	\$0.04
Typical Residential 5/8" x 3/4" Meter Bill Comparison				
4,000 Gallons	\$82.65	\$55.58	\$60.82	
6,000 Gallons	\$102.75	\$69.24	\$79.08	
8,000 Gallons	\$102.75	\$69.24	\$79.08	

SCHEDULE NO. 2			
DOCKET NO. 20220201-WS			
UNAMORTIZED RATE CASE EXPENSE			
	Staff Recommended Rates	The Woods Rate Reduction 4/24/2024	Brendenwood Rate Reduction 3/3/2026
<u>Residential and General Service</u>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$13.64	\$0.00	\$0.00
3/4"	\$20.46	\$0.00	\$0.01
1"	\$34.10	\$0.01	\$0.01
1-1/2"	\$68.20	\$0.01	\$0.02
2"	\$109.12	\$0.02	\$0.03
3"	\$218.24	\$0.04	\$0.06
4"	\$341.00	\$0.07	\$0.09
6"	\$682.00	\$0.13	\$0.18
8"	\$1,091.20	\$0.21	\$0.28
10"	\$1,568.60	\$0.30	\$0.40
Charge per 1,000 gallons - Residential			
0 - 4,000 Gallons	\$1.85	\$0.00	\$0.00
4,001 - 10,000 Gallons	\$2.78	\$0.00	\$0.00
Over 10,000 Gallons	\$3.71	\$0.00	\$0.00
Charge per 1,000 gallons - General Service			
	\$2.95	\$0.00	\$0.00
<u>Private Fire Protection</u>			
2"	\$9.09	\$0.00	\$0.00
3"	\$18.19	\$0.00	\$0.00
4"	\$28.42	\$0.01	\$0.01
6"	\$56.83	\$0.01	\$0.01
8"	\$90.93	\$0.02	\$0.02
10"	\$130.72	\$0.03	\$0.03

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: September 1, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Cibula, Harper, Sparks) *AH*
Division of Accounting and Finance (Cicchetti, Norris) *ALM*
Division of Economics (Galloway, McNulty, Smith II, Wu) *EJD*
Division of Engineering (Ellis, King, Knoblauch, Ramos, Thompson) *TB*

RE: Docket No. 20220069-GU – Petition for rate increase by Florida City Gas.

AGENDA: 09/12/23 – Regular Agenda – Motion for Reconsideration; Oral Argument Request

COMMISSIONERS ASSIGNED: Fay, Passidomo, La Rosa

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On May 31, 2022, Florida City Gas (FCG or Company) filed a petition seeking the Florida Public Service Commission's (Commission) approval of a rate increase and associated depreciation rates based on a projected test year ending December 31, 2023. FCG is a natural gas local distribution company providing sales and transportation of natural gas, and is a public utility subject to this Commission's regulatory jurisdiction under Chapter 366, Florida Statutes (F.S.). As a subsidiary of Florida Power & Light Company (FPL), FCG currently serves approximately 116,000 residential, commercial, and industrial natural gas customers in Miami-Dade, Broward, St. Lucie, Indian River, Brevard, Palm Beach, Hendry, and Martin counties.

FCG's requested rate plan consisted of: (a) an increase in base rates and charges sufficient to generate a total base revenue increase of \$29.0 million based on a projected 2023 Test Year; (b) a 10.75 percent mid-point return on equity (ROE) and an equity ratio of 59.6 percent from investor

sources for all regulatory purposes; (c) implementation of a reserve surplus amortization mechanism (RSAM); (d) approval of RSAM-adjusted depreciation rates; (e) the continuation of the Storm Damage Reserve provision approved as part of FCG's 2018 Settlement Agreement, as modified to reflect the Commission's new storm rule for gas utilities; (f) a mechanism that will allow FCG to adjust base rates in the event tax laws change during or after the conclusion of this proceeding; (g) continuation and expansion of the existing SAFE program; and (h) implementation of a new limited advanced metering infrastructure pilot program (AMI Pilot). (Rate Plan).

The Commission acknowledged intervention by the Office of Public Counsel (OPC), and intervention was granted to the Federal Executive Agencies (FEA) and to the Florida Industrial Power Users Group (FIPUG) (collectively "Intervenors"). An administrative hearing was held December 12-13, 2022. At the hearing, the Commission approved proposed stipulations on a number of issues. The parties filed post-hearing briefs which argued their positions on the remaining litigated issues. After the parties filed their briefs, the Commission held Special Agenda Conferences on March 28, 2023, and April 25, 2023, to address those issues. On June 9, 2023, the Commission issued a Final Order Granting in Part and Denying in Part Florida City Gas' Petition for Certain Rate Increases (Final Order).

One of the major issues of contention in this case was the FCG RSAM. The RSAM is an accounting mechanism created by FCG in an effort to manage its earnings, and it is dependent upon the presence of a theoretical surplus in the Depreciation Reserve. The RSAM allows FCG the flexibility to use that reserve surplus to increase or decrease depreciation expense in order to bring about a more favorable earnings position.

Depreciation parameter¹ values are routinely adjusted during the life of the underlying plant assets, and the change in depreciation rates can lead to a reserve imbalance. Depending on the adjustment, a theoretical reserve surplus can be created. For example, increasing the estimated service life of an asset can result in a theoretical reserve surplus based on the fact that depreciation expense was being collected at a higher rate in the early years of an asset based on the shorter service life. When that service life is then increased, which allows for more time to recover the undepreciated balance, a theoretical reserve surplus may now exist. In this case, three proposals were put forth regarding the depreciation parameters: those that resulted from FCG's depreciation study, FCG's RSAM-adjusted parameters,² and OPC's proposed parameters. The Commission ultimately approved the RSAM-adjusted parameters in its Final Order.

On June 23, 2023, the Office of Public Counsel (OPC) filed its Citizens' Motion for Reconsideration (Motion) pursuant to Rule 25-22.060, Florida Administrative Code (F.A.C.), and a Request for Oral Argument on Citizens' Motion for Reconsideration (Request) pursuant to Rule 25-22.0022, F.A.C. In its Motion OPC took issue with the Commission's approval of

¹ Depreciation parameters consist of account-specific values of Average Age, Average Service Life, Average Remaining Life, Future Net Salvage, and Iowa Curve type, all of which are used to determine the plant account's depreciation rate.

² The RSAM-adjusted depreciation parameters are the parameters approved by the Commission as part of a settlement agreement in Docket No. 20200051-GU, *In re: Petition for Rate Increase by Peoples Gas System*, Order No. PSC-2020-0485-FOF-GU, issued December 10, 2020.

Docket No. 20220069-GU

Date: September 1, 2023

FCG's RSAM, which it claimed warrants reconsideration. OPC also appealed the Final Order to the Florida Supreme Court, but the appeal was stayed by the Court pending the Commission's disposition of the Motion.

On June 30, 2023, FCG filed its Florida City Gas Response to Office of Public Counsel Motion for Reconsideration (Motion Response) and argued that reconsideration was neither necessary nor appropriate. FCG also filed its Response in opposition to Office of Public Counsel's Request for Oral Argument (Request Response).

This recommendation addresses OPC's Request for Oral Argument and OPC's Motion for Reconsideration, and FCG's responses thereto. The Commission has jurisdiction over this matter pursuant to Chapter 366, F.S., including Sections 366.041, 366.06, and 366.071, F.S.

Discussion of Issues

Issue 1: Should OPC's Request for Oral Argument on its Motion for Reconsideration be granted?

Recommendation: No. Staff believes that the pleadings are sufficient on their face for the Commission to evaluate and decide OPC's Motion for Reconsideration. However, if the Commission wants to exercise its discretion to hear oral argument, staff recommends 5 minutes per party as sufficient. (Sparks, Harper)

Staff Analysis:

Law

Rule 25-22.0022(1), F.A.C., allows a party to request oral argument before the Commission for any dispositive motion before the Commission by filing a separate written pleading filed concurrently with the motion on which argument is requested and stating with particularity why oral argument would aid the Commission. Granting or denying oral argument is within the sole discretion of the Commission under Rule 25-22.0022(3), F.A.C.

OPC's Position

OPC requested the opportunity to provide 10 minutes of oral argument on its Motion for Reconsideration to further elaborate on the arguments made within and to aid the Commissioners in understanding and evaluating the issues raised as well as answer any questions.

FCG's Position

In its Response, FCG argues that OPC's Request fails to articulate with particularity why oral argument would aid the Commissioners as required by Rule 25-22.0022(1), F.A.C. FCG further argues that oral argument is unnecessary as the issues raised in OPC's Motion are straightforward and do not require further explanation.

Analysis:

Granting or denying oral argument is within the sole discretion of the Commission. Staff believes that the pleadings are sufficient on their face for the Commission to evaluate and decide OPC's Motion. However, if the Commission wants to exercise its discretion to hear oral argument, staff recommends 5 minutes per party as sufficient.

Issue 2: Should OPC’s Motion for Reconsideration be granted?

Recommendation: No. OPC’s Motion for Reconsideration should be denied as to both points raised within. However, staff recommends clarifying the Final Order so that it is clear that the Commission has the authority to approve the RSAM-adjusted depreciation parameters under section 366.06(1), F.S. The Order should be clarified to state that the Commission has the authority under 366.06(1), F.S., to set depreciation rates using another utility’s depreciation parameters as long as the parameters are applied to the utility’s own used and useful assets, such as in this case. (Sparks, Harper)

Staff Analysis:

Law

The appropriate standard of review for reconsideration of a Commission order is whether the motion identifies a point of fact or law that the Commission overlooked or failed to consider in rendering the order under review. *See Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So. 2d 315 (Fla. 1974); *Diamond Cab Co. v. King*, 146 So. 2d 889 (Fla. 1962); and *Pingree v. Quaintance*, 394 So. 2d 162 (Fla. 1st DCA 1981). It is not appropriate to reargue matters that have already been considered. *Sherwood v. State*, 111 So. 2d 96 (Fla. 3d DCA 1959); citing *State ex. rel. Jaytex Realty Co. v. Green*, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted “based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review.” *Stewart Bonded Warehouse, Inc.*, 294 So. 2d at 317.

OPC’s Motion

In its Motion, OPC argues that (1) the depreciation parameters approved in the Final Order violate section 366.06(1), F.S., and (2) the Commission’s primary justification for approval of the RSAM and the RSAM-adjusted parameters was subsequently eliminated after the Commission’s vote on those issue.

OPC first argues that the Commission failed to consider whether “adopting another company’s depreciation parameters” violated the provisions of section 366.06(1), F.S. This section states:

The commission shall investigate and determine the actual legitimate costs of the property of each utility company, *actually used and useful* in the public service, and shall keep a current record of the net investment of each public utility company in such property which value, as determined by the commission, shall be used for ratemaking purposes and shall be the money *honestly and prudently invested by the public utility company in such property used and useful in serving the public*, less accrued depreciation, and shall not include any goodwill or going-concern value or franchise value in excess of payment made therefor.

Section 366.06(1), F.S., (emphasis added). There is no disagreement that the depreciation parameters approved in the Final Order were taken from the People’s Gas rate case. OPC argues “using a different utility company’s depreciation parameters instead of the depreciation

parameters of FCG’s actual, used and useful property violates [Florida statutes].” OPC states that it previously argued that the Commission lacked the authority to approve an RSAM in general, but now it argues against FCG’s RSAM for the specific reason that it establishes depreciation rates not developed using the actual assets of the company. In other words, OPC’s motion argues the FCG’s RSAM parameters are taken from assets in use by another company and this is inappropriate under section 366.06(1), F.S.

OPC also argues its position in its motion for reconsideration differs from the position taken by Commission staff in its recommendation. OPC argues “[c]onsidering whether there is precedent” for using another company’s depreciation parameters is different from considering whether using another company’s depreciation parameters violates section 366.06(1), F.S. OPC contends this distinction is a matter of law which warrants reconsideration.

Second, OPC argues that the “Commission’s primary reason for approving the RSAM – rate stability – was eliminated subsequent to the Commission’s approval.” OPC claims that all of FCG’s “guarantees” were premised on the entirety of its proposed Rate Plan being approved, and because not all of the elements of FCG’s requested Rate Plan were approved (in this case the Commission lowered FCG’s Return on Equity (ROE) from what it requested in its petition), “the record does not support the rationale that underlies the approval of the RSAM.” OPC cites FCG witness Kurt Howard’s testimony, which states that the “rate plan, in its entirety, will allow us to stay out for four years.” OPC further states that “[b]y correctly finding that the four-year plan was unenforceable and by failing to approve the entirety of FCG’s proposed four-year plan, the Commission eliminated the primary basis for approving the RSAM; therefore, the Commission should reconsider its approval of the RSAM.”

FCG’s Response

FCG first addresses the argument that approval of the RSAM-adjusted depreciation parameters violates section 366.06(1), F.S., arguing that OPC did not raise this argument in its testimony or anywhere in its pre- or post-hearing filings. FCG argues that for OPC to raise this specific issue here for the first time raises “serious due process concerns” under section 120.57(1)(b), F.S., and should therefore be denied. According to FCG, while OPC did cite to section 366.06(1), F.S., in its post-hearing brief, OPC did not raise the specific issue that use of the RSAM-adjusted depreciation parameters themselves violate the statute and only argued that the RSAM as a whole violates the statute. FCG also contends that raising an issue not set out in the Order Establishing Procedure without showing just cause violates that Order.

FCG disagrees with OPC’s assertion that a plain reading of the statute prohibits it from using the RSAM-adjusted depreciation parameters. FCG takes the position that applying the RSAM-adjusted depreciation parameters from *People’s Gas to its own used and useful plant in service* satisfies the requirements of section 366.06(1). FCG further states that “nothing in the Florida statutes precludes the Commission from approving depreciation lives and net salvage based on the application of depreciation parameter data for a similar Florida natural gas utility with assets similar to the utility’s property used and useful in serving customers.” FCG contends that holding otherwise would limit the Commission from approving the RSAM in this case and would set a precedent that would preclude the Commission from considering or approving

alternative depreciation parameters proposed by other parties as proxies or included in settlements. Furthermore, FCG asserts that contrary to OPC's allegations, use of the RSAM-adjusted parameters is consistent with Commission practice. FCG points to Docket No. 20220067-GU, *In re: Petition for rate increase by Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company - Fort Meade, and Florida Public Utilities Company - Indiantown Division*, Order No. 2023-0103-FOF-GU, issued March 15, 2023, as a similar case in which the Commission approved a depreciation study that relied on the service life estimates of other similar utilities.

FCG also states that, regardless of whether or not the issue was properly raised, it is clear the Commission considered and addressed the authority to approve the RSAM-adjusted depreciation parameters. FCG states the "record in this proceeding clearly demonstrates that the Commission in fact considered . . . whether the RSAM-adjusted depreciation parameters violate [section 366.06(1), F.S.]." FCG maintains that OPC's interpretation of the statute is incorrect, and that the RSAM-adjusted depreciation parameters are service life estimates that are in fact applied to FCG's used and useful plant in service.

FCG also addresses OPC's second argument regarding rate stability. FCG states that OPC failed to identify a mistake of fact or law or identify anything overlooked by the Commission. Instead, "OPC misinterprets the Commission's denial of FCG's four-year rate plan as a determination, wholly unsupported by the record, that RSAM is not effective in providing a measure of rate stability to customers." FCG states there is nothing in the record to support the conclusion that the rate stability provided by the RSAM was contingent upon approval of FCG's proposed plan in its entirety. Without any evidence to support this conclusion, FCG contends that the Commission could not have overlooked or failed to consider it.

Furthermore, FCG states the Commission did clearly consider whether the RSAM would provide rate stability to customers, citing the text of the Final Order which states, "We find the RSAM will result in a reduction of revenue requirement, save customers money on their utility bills, and give FCG the ability to manage its day-to-day business fluctuations, and allow FCG to take on the risk of increases in interest rates and inflation." FCG also argues this finding was supported by record evidence, citing to the staff recommendation as well as the transcript of the March 28, 2023 Special Agenda Conference. FCG contends that, in failing to identify something that was overlooked, OPC instead asks the Commission to reweigh the evidence it already considered and to reach a different conclusion.

Analysis

Depreciation Parameters and Section 366.06(1), F.S.

The appropriate standard of review for reconsideration of a Commission order is whether the motion identifies a point of fact or law that the Commission overlooked or failed to consider in rendering the order under review. Because there was testimony that FCG's use of PGS as a source for its depreciation parameters was reasonable, the Commission voted in favor of FCG's RSAM-adjusted depreciation parameters. However, it may be unclear whether the Commission considered OPC's particular interpretation of how the depreciation parameters did not fall under section 366.06(1), F.S., and thus, staff recommends clarifying the Final Order so that the

authority to approve the RSAM-adjusted depreciation parameters under section 366.06(1), F.S., is clear.

Section 366.06(1), F.S., requires the Commission investigate and determine the amount of money that (1) is honestly and prudently invested by the utility; (2) in assets that are used and useful; (3) less accrued depreciation; and (4) excludes any goodwill, going concern, or franchise value in excess of payment.

In this case, FCG used PGS's depreciation parameters to determine FCG's appropriate depreciation parameters arguing the assets used by PGS were similar to its own. FCG then applied the PGS depreciation parameters to its own assets to arrive at the depreciation rates used to calculate FCG's depreciation expense, and thus, FCG's accrued depreciation, which is contemplated by the statutory phrase "less accrued depreciation."

For the reasons noted previously, OPC argues that FCG's use of PGS's depreciation parameters violated section 366.06(1), F.S. However, there is testimony showing that, while FCG used PGS's depreciation parameters, it applied them to its own assets to arrive at its depreciation rates. The Commission was persuaded by the testimony that FCG's approach was reasonable and would result in lower revenue requirements than the amount requested by FCG if the RSAM was not approved. Because FCG applied PGS's depreciation parameters to its own assets to arrive at the depreciation rates, and because these assets are used and useful in providing service, there is no conflict with section 366.06(1), F.S. The Order should be clarified to state that the Commission has the authority under 366.06(1), F.S., to set depreciation rates using another utility's depreciation parameters as long as the parameters are applied to the utility's own used and useful assets, such as in this case.

Justification for the RSAM

OPC argues that because not all of the elements of FCG's requested rate plan were approved "the record does not support the rationale that underlies the approval of the RSAM." OPC in essence argues that the utility prefaced its guarantee of rate stability on the Commission granting *all* of the elements of its proposed Rate Plan, and thus, when the Commission did not approve FCG's requested ROE, an element of its Rate Plan, there was no guarantee of rate stability, and the Commission's "primary reason for approving the RSAM" was therefore eliminated.

The appropriate standard of review for reconsideration of a Commission order is whether the motion identifies a point of fact or law that the Commission overlooked or failed to consider in rendering the order under review. *See Stewart Bonded Warehouse*.³ On this issue OPC fails to identify any points of fact or law that were overlooked or not considered. The Order considers whether the RSAM would be a benefit to consumers regardless of any guarantees from the Utility. The Order states:

³ *Supra*, at 317.

We find the RSAM will result in a reduction of revenue requirement, save customers money on their utility bills, and give FCG the ability to manage its day-to-day business fluctuations, and allow FCG to take on the risk of increases in interest rates and FCG.

Final Order at page 17. The Final Order further states:

By approving the RSAM, we believe FCG is in the best position to maintain its ROE within the approved range and thus reduce the likelihood of additional rate increases in the near future.

Final Order at page 16. OPC points to no support in the record for its contention that the RSAM could only contribute to rate stability if FCG's proposal was granted in its entirety, nor does OPC cite to anything in the record showing the benefits of the RSAM are solely conditioned upon the approval of all elements of the Rate Plan or the proposed rate structure as a whole. In fact, the Order acknowledged that, even if all of the elements of FCG's proposal were approved exactly as requested, there could still be no binding commitment by FCG to "stay out" of future rate proceedings. *See* Order at page 6. Thus, because the Final Order acknowledges FCG's inability to make a binding commitment, OPC's argument is without merit and the record supports the rationale that underlies the approval of the RSAM.

Conclusion:

OPC's Motion for Reconsideration should be denied as to both points raised within. However, staff recommends clarifying the Final Order so that it is clear the Commission believes it has the authority to approve the RSAM-adjusted depreciation parameters under section 366.06(1), F.S., as referenced above.

Issue 3: Should this docket be closed?

Recommendation: No. This docket shall remain open while OPC's appeal is processed at the Florida Supreme Court. (Sparks, Harper)