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February 6, 2024

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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: January 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Day, Fogleman)^{CH}
Office of the General Counsel (Marquez)^{AEH}

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 2/6/2024 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

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

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
20230138-TX	FPL Energy Services, Inc.	8988

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

Item 2

REVISED 01/25/2024

FILED 1/25/2024
DOCUMENT NO. 00313-2024
FPSC - COMMISSION CLERK

State of Florida



Public Service Commission

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

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

DATE: ~~December 28, 2023~~ January 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Dike, Sapoznikoff) *SMC*
Division of Economics (Hampson, Kelley) *EJD*

RE: Docket No. 20230128-EU – Petition for declaratory statement regarding Rule 25-6.049, F.A.C., by 1150 WHG, LLC.

AGENDA: ~~01/10/24~~ 02/06/24 – Regular Agenda – Decision on Declaratory Statement – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: ~~2/6/24~~ 02/26/24 (Final Order on Petition for Declaratory Statement Must be Issued by this Date Pursuant to Petitioner’s waiver of Section 120.565(3), Florida Statutes)

SPECIAL INSTRUCTIONS: None

Case Background

On November 8, 2023, 1150 WHG, LLC (WHG) filed a petition for declaratory statement (Petition), asking the Commission to declare that, based on the facts presented, “the property qualifies for the grandfather exception set forth in [R]ule 25-6.049, [Florida Administrative Code (F.A.C.)], since the Property was constructed pursuant to a permit issued prior to January 1, 1981 and has received continuous master-metering since January 1, 1981.” Tampa Electric Company (TECO) provides electric service to the property.

Rule 25-6.049, F.A.C., sets forth electric metering requirements to measure energy use. For ease of reference, a copy of Rule 25-6.049, F.A.C., is appended to this recommendation as Attachment A.

The rule requires individual electric metering for each occupancy unit in new commercial, residential, and other buildings. This rule provides limited exemptions from the individual metering requirement for hotels, motels, hospitals, nursing homes, and other facilities for which billing for individual metering is impractical due to the nature of the facility's operation.¹ The rule also avoids retroactive application of the individual metering requirement for residential units in buildings constructed before 1981, allowing older properties to remain master-metered.²

Staff notes that individual electric metering is typically defined as measuring electric service for each occupancy unit of an establishment on an individual basis, using utility-owned meters for billing. In contrast, master-metering is typically used to describe situations in which electric service for multiple occupancy buildings is measured using a single, utility-owned meter for billing. TECO defines sub-meters, in tariff sheet No. 4.110, as a meter used to check electric usage on a particular electrical load for a non-billing purpose. Sub-meters are installed behind the utility-owned master-meter by the property owner or third party.

The Commission has stated that the purpose of Rule 25-6.049, F.A.C., is to implement the Florida Energy Efficiency and Conservation Act (FEECA) and encourage customers to conserve electricity.³ As this Commission has noted, "when unit owners are responsible for paying for their actual consumption, they are more likely to conserve to minimize their bills."⁴

Law Governing Petitions for Declaratory Statement

Section 120.565, Florida Statutes (F.S.), sets forth the necessary elements of a petition for declaratory statement. This section provides:

- (1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.
- (2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

¹ Rule 25-6.049, F.A.C.; *see also* Order No. PSC-01-0626-PAA-EU, issued March 14, 2001, in Docket No. 001543-EU, *In re: Petition for Variance from or Waiver of Rule 25-6.049(5)(a), F.A.C., by Sundestin International Homeowners Association, Inc.*

² Rule 25-6.049(5), F.A.C.

³ Order No. PSC-15-0363-PAA-EU, issued September 8, 2015, in Docket No. 150142-EU, *In re: Petition by Wiscan, LLC for waiver of Rule 25-6.049(5), F.A.C.*

⁴ *Id.*

Rule 28-105.001, F.A.C., states the purpose of a declaratory statement:

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person.

If a petitioner meets the filing requirements provided by Rule 28-105.002, F.A.C., an agency must issue a declaratory statement. Rule 28-105.003, F.A.C., provides the requirements for how agencies must dispose of declaratory statements and states that an agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. A declaratory statement enables members of the public to resolve ambiguities of law and obtain definitive, binding advice as to the applicability of agency law to a particular set of facts.

Procedural Matters

Pursuant to Section 120.565, F.S., and Rule 28-105.0024, F.A.C., a Notice of Declaratory Statement was published in the November 13, 2023, edition of the Florida Administrative Register to inform substantially affected persons of the Petition. TECO was granted intervention into this docket by Order No. PSC-2023-0360-PCO-EU, issued November 28, 2023. Pursuant to Order No. PSC-2023-0360-PCO-EU, TECO filed its response to the Petition on December 6, 2023, and WHG filed its reply to TECO's response on December 13, 2023.

This recommendation addresses whether the Commission should grant WHG's Petition. Pursuant to Section 120.565(3), F.S., a final order on a request for a declaratory statement must be issued within 90 days of the filing of the Petition. This docket was set for the January 10, 2024, Agenda Conference. WHG requested that the docket be deferred to the February 6, 2024, Agenda Conference, and waived the statutory deadline for the Commission to issue its final order until February 26, 2024. The Commission approved WHG's deferral request and, as such, the statutory deadline to issue a final order on the Petition is ~~February 6, 2024~~ February 26, 2024. The Commission has jurisdiction to consider this matter pursuant to Section 120.565 and Chapter 366, F.S.

Discussion of Issues

Issue 1: Should the Commission grant WHG’s Petition for Declaratory Statement?

Recommendation: No. The Commission should deny WHG’s Petition for Declaratory Statement and instead declare that WHG does not qualify for the grandfather exception under Rule 25-6.049, F.A.C., and that WHG must use individual metering on its property. (Dike, Hampson, Kelley)

Staff Analysis:

Facts and Legal Analysis from the Parties

Under Rule 28-105.003, F.A.C., in considering the facts set forth in the pleadings, “[t]he agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts.” Therefore this recommendation relies on the facts as presented by WHG and TECO, without taking a position with regard to the validity of the facts.

WHG’s Statement of Facts

In its Petition and accompanying affidavit, WHG states it purchased the property at issue in November 2022. The property was originally constructed in 1973 and has continuously operated with a master-meter electrical system since then. In December 2022, the City of Winter Haven issued permits for WHG to renovate the property, converting it into individual, residential units.

WHG asserts that it informed TECO in January 2023 that it planned to install a sub-metering system for electrical use on the property. Sometime after that, WHG alleges it began the process of installing sub-metering in the residential units on the property. Under its plan, WHG states that tenants will pay for their electricity at the same rate at which WHG is billed by TECO, based on their individual energy usage recorded by the sub-meter in each unit. WHG sets forth that an independent third party will then invoice and collect these amounts from the tenants as reimbursement for WHG. WHG states that it will ultimately be billed by TECO for the energy usage recorded by the master-meter for the entire property. WHG further contends that in July 2023, TECO objected to the plan.

WHG claims that it has changed all of the wiring in the building and installed half of the sub-meters in the individual units already. WHG estimates that it would cost \$1.5 million to install individual meters. Moreover, WHG opines that the installation of solar panels—which it states would also further the purposes of FEECA—is not justifiable if the property cannot use master-metering. WHG states that its ultimate goals are to avoid retrofitting costs, upgrade the property for tenants, and achieve the conservation and sustainability goals of FEECA.

TECO’s Statement of Facts

In its response to the Petition, TECO states that the property at issue included multiple motel structures and an office building. TECO sets forth that the company provided electric service to the motel from its construction in 1973 until November 2022, when Petitioner became the customer of record. TECO asserts that in January 2023, an energy auditor from TECO visited the property to perform a Commercial Energy Audit.

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TECO also alleges that on June 16, 2023, WHG advised TECO that it intended to master-meter the property with sub-metering in the individual apartments. TECO contends that on June 18, 2023, TECO informed WHG that master-metering is not consistent with Rule 25-6.049, F.A.C. TECO further claims that when WHG sent construction design plans to TECO in June 2023, the plans did not include sub-metering of the residential units. TECO states that the company sent letters to WHG in July and August of 2023, informing Petitioner that the property did not qualify for master-metering.

In August 2023, WHG made an informal complaint to the Commission. TECO states that WHG subsequently informed TECO that it would begin renting out apartments in September 2023. On September 27, 2023, Commission staff issued a complaint resolution, finding that TECO had not violated any Commission rules and, therefore, could interrupt electric service after giving WHG proper notice.

The Parties' Legal Arguments

WHG maintains its property is exempt from the individual metering requirement of Rule 25-6.049, F.A.C., because its buildings were permitted and constructed prior to 1981 and the property has had continuous master-metering since its construction. WHG also argues the requirement for new residential buildings to use individual meters does not apply in this matter because the buildings on the property are not new, despite the renovations.

In response, TECO argues that WHG's property does not qualify for the grandfather exception in Rule 25-6.049, F.A.C. TECO opines that the grandfather exception has limited applicability to occupancy units built prior to 1981, not motels and other overnight occupancy buildings. TECO claims its interpretation follows the plain language of Rule 25-6.049, F.A.C., and Commission precedent.

In its reply to TECO's response, WHG now asserts that the grandfather exception in Rule 25-6.049, F.A.C., applies because the property has occupancy units in a new residential building. WHG states the property is a new residential building because of the renovations. WHG posits that it is irrelevant whether its exemption from individual metering came from the motel exception or the grandfather exception. WHG contends that it follows the plain language of the rule and TECO misrepresents Commission precedent.

WHG further asserts that its use of the grandfather exception is a continuation of a prior, non-conforming use, rather than the creation of a new, non-conforming use. It contends that substantial upgrading of the property does not create a new use and that the rule does not require that the property's use remains continuous to rely on the grandfather exception. WHG also argues that it has already incurred substantial costs by sub-metering some of the units, and that it would be burdensome to switch to individual metering.

Next, WHG claims that its use of sub-meters will achieve the purpose of FEECA—the statute that Rule 25-6.049, F.A.C., implements—as residents would be responsible for their individual electric consumption, thus incentivizing conservation. In response, TECO alleges the Commission should declare that individual metering is required because WHG's master-

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metering approach undermines the purposes of FEECA. TECO cites to the intent of Rule 25-6.049, F.A.C., arguing that the rule implements FEECA by having individual residents pay for their electric, so that they are more likely to conserve energy and lower their bills. Here, TECO states that the tenants will be paying a portion of WHG's commercial rate under WHG's master-metering plan. TECO argues that since the cost of electricity differs for residential and commercial customers, the tenants would be paying a potentially lower commercial rate than they would under individual metering. TECO claims this would be inapposite to the policy goal of conservation under FEECA, as customers would not see their conservation efforts reflected in their bills, unless the units are individually metered.

TECO further states that WHG's proposed plan raises other issues outside the requested declaratory statement. TECO points out that WHG has not requested a declaratory statement regarding whether the proposed plan would be consistent with Rule 25-6.065, F.A.C., Net Metering (which allows a customer to offset its electricity costs via customer-owned renewable generation). TECO asserts that if the Commission grants the requested declaratory statement, WHG will be offsetting the costs of electricity usage of all the residents on the property, not just WHG's usage, with the planned solar array.

Additionally, TECO argues that if the Commission grants the requested declaratory statement, then WHG may be considered an "electric utility" and a "public utility" under Chapter 366, F.S. In its reply, WHG posits that TECO's argument is not based in fact. WHG argues that it would agree to any limitations the Commission may impose, so that WHG would not operate as a public or electric utility.

Staff's Analysis of WHG's Petition for Declaratory Statement

WHG's Requested Declaratory Statement

WHG asks the Commission to issue the following affirmative declaratory statement:

The Property qualifies for the "grandfather exception" set forth in [R]ule 25-6.049[, F.A.C.,] since the Property was constructed pursuant to a permit issued prior to January 1, 1981 and has received continuous master-metering since January 1, 1981.

Threshold Requirements of Petition

As stated in the case background, the purpose of a declaratory statement is to address the applicability of statutory provisions, orders, or rules of an agency to the petitioner's particular circumstances.⁵ Under Section 120.565(1)-(2), F.S., a petition must "state with particularity the petitioner's set of circumstances" and specify the statute, order, or rule that the petitioner believes is applicable, as well as show the petitioner is substantially affected. WHG's Petition contains specific details about the property at issue and electric service concerns and identifies Rule 25-6.049, F.A.C., as the rule that applies to its set of circumstances. WHG alleges that it and TECO have different interpretations of the rule and seeks a declaration to establish the proper interpretation of the rule as it applies to WHG's property. WHG is substantially affected

⁵ Rule 28-105.001, F.A.C.

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because of the costs associated with metering its property and the disagreement with its electric service provider. In sum, WHG has satisfied the threshold requirements for issuance of a declaratory statement.

Application of Rule 25-6.049, F.A.C.

Staff believes that WHG's property does not fall under the grandfather exception of Rule 25-6.049, F.A.C., and it never has. In statutory interpretation, courts "follow the supremacy-of-text principle—namely, the principle that [t]he words of a governing text are of paramount concern, and what they convey, in their context, is what the text means."⁶ Thus, the plain language of the rule must be examined to determine how the rule should be applied to WHG's particular circumstances.

Under Rule 25-6.049(5), F.A.C., properties with occupancy units—e.g., rented or leased portions of residential and commercial buildings—can avoid retroactive application of individual metering requirements if (1) the construction permit for the property was issued before 1981 and (2) the property has been using master-metering continuously since that time.⁷ Here, the property was originally constructed to be a motel, which meets the definition of "overnight occupancy" in Rule 25-6.049(8)(b), F.A.C. As the property was used as a motel, rather than residential units, there has never been a requirement for individual metering from which the property needed exception. Staff believes that since there was no grandfather exception in the first place, the Commission cannot extend an exception to WHG now via a declaratory statement.⁸

Assuming for the sake of argument, even if the property originally qualified for the grandfather exception under Rule 25-6.049, F.A.C., its use has changed fundamentally from overnight occupancy to occupancy units, which would negate the exception. Subsection (5) of the rule states that "[i]ndividual electric metering by the utility shall be required for each separate occupancy unit of [a] new . . . residential building." Although the building structures are not new, WHG obtained a new construction permit in 2022 to renovate the buildings, turning motel rooms into apartment units. In its Petition, WHG first argued that the building was not new. Then, it subsequently argued that the building was considered a new residential building in its reply to TECO's response. Regardless, staff believes this renovation generates a new residential building.

⁶ *Ham v. Portfolio Recovery Assocs., LLC*, 308 So. 3d 942, 946 (Fla. 2020) (citing Antonin Scalia & Bryan A. Garner, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 56 (2012)).

⁷ The Commission has identified the purpose of the grandfather clause to be "advancing conservation, while at the same time, avoiding the retroactive imposition of individual metering retrofit costs on buildings constructed as master-metered buildings prior to the adoption of the rule." Order No. PSC-00-1802-FOF-EU, issued October 2, 2000, in Docket No. 981104-EU, *In re: Proposed Amendment of Rule 25-6.049, F.A.C., Measuring Customer Service*.

⁸ Even in rule waivers, which this Petition is not, "[t]he types of facilities that are exempted from the individual metering requirement are those in which, due to their nature or mode of operation, it is not practical to attribute usage to individual occupants. For example, hotels and motels are commercial enterprises in which the occupants of the units are not billed for their use of electricity, but rather pay a bundled rate for the use of a room for a limited time." Order No. PSC-01-0626-PAA-EU, issued March 14, 2001, in Docket No. 001543-EU, *In re: Petition for Variance from or Waiver of Rule 25-6.049(5)(a), F.A.C., by Sundestin International Homeowners Association, Inc.*

Even if the outer structures remain the same, the renovation changes the nature of the property from commercial to residential. The 2022 permit and subsequent conversion creates a new, nonconforming use when WHG installs sub-metering rather than individual metering, which is opposite to Commission precedent. As this Commission has stated, “[t]he concept of grandfathering simply tolerates pre-existing non-conforming uses, it does not condone the creation of new ones.”⁹ Not only does the creation of a new grandfather exception go against Commission precedent, but the creation of sub-metering does too. This Commission has previously stated that, “[w]e are concerned that if non-utility entities become responsible for metering and billing of electricity, we will no longer have the statutory authority to [e]nsure that the protections currently afforded by the Commission statutes and rules are provided to sub-metered customers.”¹⁰

Additionally, the cost associated with changing the property from master-metering to individual metering is not sufficient reason to depart from the plain language of Rule 25-6.049, F.A.C., and Commission precedent.¹¹ There is no mention of cost considerations in Rule 25-6.049, F.A.C. Here, WHG asserts it has incurred substantial costs in wiring and installation of half of the sub-meters on the property, and the subsequent installation of individual meters would be burdensome. While WHG sets forth this cost argument, Rule 25-6.049, F.A.C., does not allow the Commission to grant exceptions from individual metering solely based on cost.

The potential consequences of approval of the requested declaratory statement also indicate that WHG’s interpretation of Rule 25-6.048, F.A.C., runs counter to the intent of the rule. TECO states that it bills WHG’s property at a commercial rate, so WHG’s plan may circumvent rate design. Rates purposefully differ for commercial and residential customers, because “[a] large proportion of the production costs of electricity are allocated to the rate classes based on their contribution to the system's peak demand.”¹² If WHG does bill individual tenants for their contribution to the overall energy usage of the property, then the tenants will be paying a portion of a commercial rate, instead of the residential rates, under WHG’s plan. If the Commission grants the requested declaratory statement, then it may implicitly allow WHG to bypass rate design and use a commercial rate. This potential consequence of WHG’s interpretation supports staff’s interpretation of Rule 25-6.049, F.A.C.

⁹ Order No. PSC-98-0449-FOF-EI, issued on March 30, 1998, in Docket No. 971542-EI, *In re: Petition for Declaratory Statement Regarding Eligibility of Pre-1981 Buildings for Conversion to Master Metering by Florida Power Corporation*.

¹⁰ Order No. PSC-97-0074-FOF-EU, issued on January 24, 1997, in Docket No. 951485-EU, *In re: Petition to Initiate Changes Relating to Rule 25-6.049, F.A.C., Measuring Customer Service, by MicroMETER Corporation*.

¹¹ While substantial hardship is considered in rule variances, it is not a factor to consider in the rule at hand. See Order No. PSC-01-0626-PAA-EU, issued March 14, 2001, in Docket No. 001543-EU, *In re: Petition for Variance from or Waiver of Rule 25-6.049(5)(a), F.A.C., by Sundestin International Homeowners Association, Inc.*

¹² Order No. PSC-97-0074-FOF-EU, issued on January 24, 1997, in Docket No. 951485-EU, *In re: Petition to Initiate Changes Relating to Rule 25-6.049, F.A.C., Measuring Customer Service, by MicroMETER Corporation* (“In its petition, Micrometer cited as an advantage to its proposal the ability of apartments, condominiums, and other multi-occupancy residential buildings to take service under a commercial rate through a master meter, in lieu of the residential rate billed through individual meters. We do not believe that this would be appropriate. The rates charged to the various classes of customers are based on the unique usage characteristics of each class. We do not believe it would be appropriate to allow customers whose usage is residential in nature to take service under a commercial rate.”).

The Purpose of FEECA

WHG's statement that it is purporting to meet the purpose of FEECA through other means does not override the plain language and purpose of the rule. Under Rule 25-6.049, F.A.C.,

The primary objective of [the] individual metering requirement is to promote energy conservation. When unit owners are directly responsible for paying for their electricity consumption, they are more likely to conserve in order to minimize their bills.¹³

Here, WHG seeks to use a solar panel array and master-metering with sub-meters to lower tenants' bills and offset their usage. While WHG asserts that sub-metering its units alongside the solar array will achieve the same conservation goals encapsulated in FEECA as individual metering, these two methods are not interchangeable under the plain language of the rule. Despite its assertion otherwise, WHG's plan to use solar panels under a cogeneration agreement does not obviate the requirement for individual metering. Thus, approval of the requested declaratory statement would actually run counter to the purpose of FEECA.

Other Regulatory Concerns

Furthermore, staff agrees with TECO that WHG's plan raises other potential legal issues beyond those identified in its Petition. Staff believes that WHG's interpretation of Rule 25-6.049, F.A.C., runs counter to the legislative intent of Chapter 366, F.S., and Commission rules. In statutory construction, the doctrine of *in pari materia* "requires that statutes relating to the same subject . . . be construed together to harmonize the statutes and to give effect to the Legislature's intent." *E.A.R. v. State*, 4 So. 3d 614 (Fla. 2009) (citing *Fla. Dep't of State v. Martin*, 916 So.2d 763, 768 (Fla.2005)).

If the Commission grants WHG's declaratory statement, then WHG may become a "public utility" or "electric utility" under Florida law, by maintaining and operating solar panels and supplying electric generation to its tenants. Section 366.02(8), F.S., defines a "public utility" as "every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity . . . to or for the public within this state." Under Section 366.02(4), an "electric utility" is defined as "any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state." Here, WHG plans to install solar panels and sub-meters and distribute that solar power to the sub-metered tenants. The Commission should harmonize the provisions of Chapter 366, F.S., and Rule 25-6.049, F.A.C., by following the plain language interpretation of Rule 25-6.049, F.A.C. In doing so, the Commission can avoid these extraneous consequences of the requested declaratory statement.

Rule 25-6.065, F.A.C., the Commission's net metering rule, should also be read *in pari materia*. Under Rule 25-6.065, F.A.C., customers with their own renewable generation can "interconnect to the investor-owned utility's electrical grid . . . to net meter." Through this regulatory scheme, a customer can offset their energy usage with their own renewable generation. TECO argues that

¹³ Order No. PSC-01-0626-PAA-EU, issued March 14, 2001, in Docket No. 001543-EU, *In re: Petition for Variance from or Waiver of Rule 25-6.049(5)(a), F.A.C., by Sundestin International Homeowners Association, Inc.*

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WHG's plan could cause WHG to offset electricity usage of the 200+ residents on the property, not just WHG's electricity, which it argues is opposite to the purpose of Rule 25-6.065, F.A.C. The Florida Legislature's intent is to promote renewable energy generation for individual customers, not to allow net metering for businesses on behalf of others.¹⁴ In order to give effect to the Legislature's intent regarding net metering, and interpret the rules in pari materia, the Commission should deny the requested declaratory statement.

To clarify, WHG has not asked for any declaration on whether WHG's plan to provide service to its property will make it an electric company or public utility under Chapter 366, F.S., or whether the manner of electric service is consistent with Rule 25-6.065, F.A.C., nor is staff recommending the Commission make such declarations. Staff is only pointing out that the declaration WHG is requesting is inconsistent with other parts of Chapter 366, F.S., and other Commission rules and, thus, indicates the requested declaration is an incorrect interpretation of Rule 25-6.049, F.A.C.

Conclusion

For the reasons stated above, staff recommends the Commission deny WHG's Petition for Declaratory Statement and should instead declare that (1) WHG's property does not fall under the grandfather exception of Rule 25-6.049, F.A.C., and (2) WHG must use individual metering for its property.

¹⁴ See § 366.91, F.S. (using a statutory scheme wherein customers can offset their own energy use via renewable energy, not others); see also Florida Senate Bill 1718 (2021) (showing a proposed bill that the Legislature **did not** pass which would have expressly authorized businesses to net meter and use renewable generation in the same manner that WHG plans).

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission votes to either grant or deny the Petition for Declaratory Statement, a final order will be issued and the docket should be closed. (Dike)

Staff Analysis: Whether the Commission grants or denies WHG's Petition, a final order will be issued. Upon issuance of the final order, the docket should be closed.

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25-6.049 Measuring Customer Service.

(1) All energy sold to customers shall be measured by commercially acceptable measuring devices owned and maintained by the utility, except where it is impractical to meter loads, such as street lighting, temporary or special installations, in which case the consumption may be calculated, or billed on demand or connected load rate or as provided in the utility's filed tariff.

(2) When there is more than one meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the circuit metered. Where similar types of meters record different quantities, (kilowatt-hours and reactive power, for example), metering equipment shall be tagged or plainly marked to indicate what the meters are recording.

(3) Meters which are not direct reading shall have the multiplier plainly marked on the meter. All charts taken from recording meters shall be marked with the date of the record, the meter number, customer, and chart multiplier. The register ratio shall be marked on all meter registers. The watt-hour constant for the meter itself shall be placed on all watt-hour meters.

(4) Metering equipment shall not be set "fast" or "slow" to compensate for supply transformer or line losses.

(5) Individual electric metering by the utility shall be required for each separate occupancy unit of new commercial establishments, residential buildings, condominiums, cooperatives, marinas, and trailer, mobile home and recreational vehicle parks. However, individual metering shall not be required for any such occupancy unit for which a construction permit was issued before, and which has received master-metered service continuously since January 1, 1981. In addition, individual electric meters shall not be required:

(a) In those portions of a commercial establishment where the floor space dimensions or physical configuration of the units are subject to alteration, as evidenced by non-structural element partition walls, unless the utility determines that adequate provisions can be made to modify the metering to accurately reflect such alterations;

(b) For electricity used in central heating, ventilating and air conditioning systems, or electric back up service to storage heating and cooling systems;

(c) For electricity used in specialized-use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and operated in conjunction with, a nursing home or other health care facility providing at least the same level and types of services as a nursing home, convalescent homes, facilities certificated under Chapter 651, F.S., college dormitories, convents, sorority houses, fraternity houses, and similar facilities;

(d) For lodging establishments such as hotels, motels, and similar facilities which are rented, leased, or otherwise provided to guests by an operator providing overnight occupancy as defined in paragraph (8)(b);

(e) For separate, specially-designated areas for overnight occupancy, as defined in paragraph (8)(b), at trailer, mobile home and recreational vehicle parks and marinas where permanent residency is not established;

(f) For new and existing time-share plans, provided that all of the occupancy units which are served by the master meter or meters are committed to a time-share plan as defined in Chapter 721, F.S., and none of the occupancy units are used for permanent occupancy.

(g) For condominiums that meet the following criteria:

1. The declaration of condominium requires that at least 95 percent of the units are used solely for overnight occupancy as defined in paragraph (8)(b) of this rule;

2. A registration desk, lobby and central telephone switchboard are maintained; and

3. A record is kept for each unit showing each check-in and check-out date for the unit, and the name(s) of the individual(s) registered to occupy the unit between each check-in and check-out date.

(6) Master-metered condominiums.

(a) Initial Qualifications – In addition to the criteria in paragraph (5)(g), in order to initially qualify for

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master-metered service, the owner or developer of the condominium, the condominium association, or the customer must attest to the utility that the criteria in paragraph (5)(g) and in this subsection have been met, and that any cost of future conversion to individual metering will be the responsibility of the customer, consistent with subsection (7) of this rule. Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in compliance with this rule. If the criteria in paragraph (5)(g) and in this subsection are not met, then the utility shall not provide master-metered service to the condominium.

(b) Ongoing Compliance – The customer shall attest annually, in writing, to the utility that the condominium meets the criteria for master metering in paragraph (5)(g). The utility shall establish the date that annual compliance materials are due based on its determination of the date that the criteria in paragraphs (5)(g) and (6)(a) were initially satisfied, and shall inform the customer of that date before the first annual notice is due. The customer shall notify the utility within 10 days if, at any time, the condominium ceases to meet the requirements in paragraph (5)(g).

(c) Upon request and reasonable notice by the utility, the utility shall be allowed to inspect the condominium to collect evidence needed to determine whether the condominium is in compliance with this rule.

(d) Failure to Comply – If a condominium is master metered under the exemption in this rule and subsequently fails to meet the criteria contained in paragraph (5)(g), or the customer fails to make the annual attestation required by paragraph (6)(b), then the utility shall promptly notify the customer that the condominium is no longer eligible for master-metered service. If the customer does not respond with clear evidence to the contrary within 30 days of receiving the notice, the customer shall individually meter the condominium units within six months following the date on the notice. During this six month period, the utility shall not discontinue service based on failure to comply with this rule. Thereafter, the provisions of Rule 25-6.105, F.A.C., apply.

(7) When a structure or building is converted from individual metering to master metering, or from master metering to individual metering, the customer shall be responsible for the costs incurred by the utility for the conversion. These costs shall include, but not be limited to, any remaining undepreciated cost of any existing distribution equipment which is removed or transferred to the ownership of the customer, plus the cost of removal or relocation of any distribution equipment, less the salvage value of any removed equipment.

(8) For purposes of this rule:

(a) “Occupancy unit” means that portion of any commercial establishment, single and multi-unit residential building, or trailer, mobile home or recreational vehicle park, or marina which is set apart from the rest of such facility by clearly determinable boundaries as described in the rental, lease, or ownership agreement for such unit.

(b) “Overnight Occupancy” means use of an occupancy unit for a short term such as per day or per week where permanent residency is not established.

(9)(a) Where individual metering is not required under subsection (5) and master metering is used in lieu thereof, reasonable apportionment methods, including sub-metering may be used by the customer of record or the owner of such facility solely for the purpose of allocating the cost of the electricity billed by the utility. The term “cost” as used herein means only those charges specifically authorized by the electric utility’s tariff, including but not limited to the customer, energy, demand, fuel, conservation, capacity and environmental charges made by the electric utility plus applicable taxes and fees to the customer of record responsible for the master meter payments. The term does not include late payment charges, returned check charges, the cost of the customer-owned distribution system behind the master meter, the customer of record’s cost of billing the individual units, and other such costs.

(b) Any fees or charges collected by a customer of record for electricity billed to the customer’s account

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by the utility, whether based on the use of sub-metering or any other allocation method, shall be determined in a manner which reimburses the customer of record for no more than the customer's actual cost of electricity.

(c) Each utility shall develop a standard policy governing the provisions of sub-metering as provided for herein. Such policy shall be filed by each utility as part of its tariffs. The policy shall have uniform application and shall be nondiscriminatory.

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.05(1), 366.06(1), 366.81, 366.82 FS. History—New 7-29-69, Amended 11-26-80, 12-23-82, 12-28-83, Formerly 25-6.49, Amended 7-14-87, 10-5-88, 3-23-97, 10-10-06.

Item 3

FILED 1/25/2024
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FPSC - COMMISSION CLERK

State of Florida



Public Service Commission

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

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

DATE: January 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (P. Buys, King, Ramos) *TB*
Division of Accounting and Finance (Higgins, Kelley, Richards) *ALM*
Division of Economics (Bruce, Hudson) *JP*
Office of the General Counsel (Stiller) *JSC*

RE: Docket No. 20230081-WS – Application for increase in water and wastewater rates in Broward County by Royal Waterworks, Inc.

AGENDA: 02/06/24 – Regular Agenda – Proposed Agency Action All Issues, Except for Issues 18, 19, and 20, - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: 02/20/24 (5-Month Effective Date – PAA Rate Case)

SPECIAL INSTRUCTIONS: None

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Case Background

Royal Waterworks, Inc. (Royal or Utility) is a Class B water and wastewater utility providing service to approximately 410 residential and 111 general service water customers in Broward County. Royal is located in the South Florida Water Management District. The Utility's initial rates were established in 1983 in Docket No. 19820237-WS.¹ At that time, the Utility was owned by University Utility Corporation and subsequently underwent two transfers.²

In 2022, the Utility recorded total company operating revenues of \$704,462 and \$713,819 for water and wastewater, respectively. Royal reported a net operating income for 2022 of \$12,515 for water and \$201,311 for wastewater.

On August 14, 2023, Royal filed an application for increased interim and final water and wastewater rates.³ However, on August 22, 2023, the Utility withdrew its request for interim rates due to calculation errors.⁴

The Utility requested that its application be processed using the Proposed Agency Action (PAA) procedure. Royal's application for increased final water and wastewater rates is based on the historical test year ended May 31, 2023. The requested final rates include adjustments for seven pro forma plant addition projects (five water additions and two wastewater additions) and five pro forma additions to operations and maintenance expenses.

Royal requested final rates designed to generate revenues of \$837,140 for water operations, and \$805,685 for wastewater operations. This represents a revenue increase of \$66,835, or 8.7 percent, for water and \$53,757, or 7.3 percent, for wastewater.

By letter, dated September 13, 2023, staff advised the Utility that its Minimum Filing Requirements (MFRs) had deficiencies.⁵ Royal responded to that letter, correcting some of the deficiencies, on September 15, 2023.⁶ Staff sent a second deficiency letter on September 20, 2023.⁷ On the same day, the Utility provided responses to the second deficiency letter.⁸ Royal corrected its deficiencies and the official filing date is September 20, 2023.⁹

¹Order No. 12170, issued June 24, 1983, in Docket No. 19820237-WS, *In re: Application of University Utility Corporation for an increase in its rates to its customers in Broward County, Florida*.

²Order No. 19867, issued August 22, 1988, in Docket No. 19880557-WS, *In re: Application of Royal Utility Company for transfer of Certifications Nos. 259-W and 199-S from University Utility Corporation*; and Order No. PSC-2020-0458-PAA-WS, issued November 23, 2020, in Docket No. 20190170-WS, *In re: Application for transfer of facilities and Certificate Nos. 259-W and 199-S in Broward County from Royal Utility Company to Royal Waterworks, Inc.*

³Document No. 04709-2023, filed August 14, 2023.

⁴Document No. 04917-2023, filed August 22, 2023.

⁵Document No. 05199-2023, filed September 13, 2023.

⁶Document No. 05222-2023, filed September 15, 2023.

⁷Document No. 05292-2023, filed September 20, 2023.

⁸Document No. 05293-2023, filed September 20, 2023.

⁹Document No. 05363-2023, filed September 25, 2023.

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By Order No. PSC-2023-0307-PCO-WS, the Commission suspended final rates proposed by the Utility to allow staff sufficient time to process this case.¹⁰ The Office of Public Counsel (OPC) intervened in this docket on November 14, 2023. The intervention of the OPC was acknowledged by Order No. PSC-2023-0356-PCO-WS, issued on November 28, 2023. Staff conducted a virtual customer meeting on December 11, 2023. The customer comments filed in this docket are discussed in Issue 1.

The Commission has jurisdiction pursuant to Sections 367.081 and 367.082, Florida Statutes (F.S.).

¹⁰Order No. PSC-2023-0307-PCO-WS, issued October 16, 2023, in Docket No. 20230081-WS, *In re: Application for increase in water and wastewater rates in Broward County, by Royal Waterworks, Inc.*

Discussion of Issues

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

Recommendation: Yes. Royal is meeting all Department of Environmental Protection (DEP) primary and secondary standards and has been responsive to customer complaints. Therefore, the quality of service provided by Royal should be considered satisfactory. (P. Buys)

Staff Analysis: Pursuant to Section 367.081(2)(a)1., F.S., and Rule 25-30.433(1), Florida Administrative Code (F.A.C.), the Commission, in every rate case, shall make a determination of the quality of service provided by the utility by evaluating the quality of the utility's product (water) and the utility's attempt to address customer satisfaction (water and wastewater). The rule requires that the most recent chemical analyses, outstanding citations, violations, and consent orders on file with the DEP and the county health department, along with any DEP and county health department officials' testimony concerning quality of service shall be considered. In addition, any customer testimony, comments, or complaints shall also be considered. The operating condition of the water and wastewater systems are addressed in Issue 2.

Quality of Utility's Product

In evaluation of Royal's product, staff reviewed the Utility's compliance with the DEP primary and secondary drinking water standards. Primary standards protect public health while secondary standards regulate contaminants that may impact the taste, odor, and color of drinking water. The most recent comprehensive chemical analyses was performed on September 6, 2023, and all results were found to be in compliance with DEP regulations.

The Utility's Attempt to Address Customer Satisfaction

Staff reviewed the complaints filed in the Commission's Consumer Activity Tracking System (CATS), complaints filed with the DEP, and complaints received by the Utility from January 1, 2018, through December 31, 2023. During this time period, there were 15 complaints filed in CATS, which were regarding quality of service, water pressure, water quality, and improper bills. There were 29 complaints received by the DEP stating that the water is cloudy, brown or yellow in color, has odor, tastes bad, and has hardness. There was one complaint filed with the DEP in 2021 concerning the smell of the wastewater collection system. Over this same time period, the Utility received 45 complaints. The majority of these complaints were regarding its water system and reported low water pressure, no water, and leaks. The Utility responded to the complaints by testing the meters, conducting testing for leaks, and flushing to improve the water quality.

A virtual customer meeting was held on Monday December 11, 2023, where one customer expressed concerns regarding the Utility's reason for its requested rate increase and the potential effects it could have on customers. That customer also provided a petition with 91 signatures opposing the rate increase.¹¹ Five written comments were submitted that stated the rate increase is unreasonable, and also reported sediment in the water, poor customer service, and stated that boil water notices (BWN) were not timely received. Staff also performed a supplemental review of the complaints filed in CATS following the December 11, 2023 customer meeting through

¹¹Document No. 00142-2024, dated January 10, 2024.

January 22, 2024. One additional customer complaint was added to CATS; however, this complaint was derived from the customer’s comment submitted to the docket file concerning the overall rate increase, BWN timeliness, and a broken shut-off valve. In response to this complaint, the Utility issued a service order to inspect the customer’s shut-off valve and explained that a BWN was issued due to a power failure. The Utility also stated that the BWN was issued in accordance with DEP Rules and was subsequently rescinded. Table 1-1 shows the number of complaints, categorized by complaint type and source. It appears that the Utility has responded to customers when a complaint was received. Additionally, staff’s review of the above information determined that Royal’s customer complaints have decreased since the Utility’s transfer in 2019. Therefore, staff believes that Royal has satisfactorily attempted to address its customer’s concerns.

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

Subject	CATS	Correspondence / Customer Meeting	DEP	Utility	Total
Water Pressure	2			8	10
Water Quality	8	1	29	2	40
Customer Service		2			2
BWN not timely		1			1
No Water	3			6	9
Condition of Meter	1			5	6
Broken Valve		1			1
Billing	1			5	6
Leaks				19	19
Rate Increase		7			7
Total*	15	12	29	45	101

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

Conclusion

Royal is meeting all DEP primary and secondary standards, and has been responsive to customer complaints. Therefore, the quality of service provided by Royal should be considered satisfactory.

Issue 2: Are the infrastructure and operating conditions of Royal’s water system in compliance with DEP regulations?

Recommendation: Yes. On September 29, 2023, the DEP deemed Royal’s water facilities to be in compliance with its rules and regulations. (P. Buys)

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

Water System Operating Condition

Royal’s water system consists of three wells, each with a capacity of 350 gallons per minute (gpm) for a total permitted design capacity of 1,050 gpm. The Utility also has three storage units: two ground water storage tanks with a capacity of 500,000 gallons and 80,000 gallons, and a 10,000 gallon hydropneumatic tank. Royal uses gas and liquid chlorine to treat the raw water. Staff reviewed Royal’s sanitary surveys conducted by the DEP to determine the Utility’s overall water facility compliance. A sanitary survey was conducted on May 19, 2023, indicating that Royal’s water treatment facility was not in compliance with the DEP’s rules and regulations and there were deficiencies.¹² The Utility corrected the deficiencies and notified the DEP of the correction on June 14, 2023.¹³ On September 29, 2023, the DEP deemed Royal’s water facilities to be in compliance with its rules and regulations.¹⁴ Royal does not have a wastewater treatment plant, and purchases wastewater treatment from Broward County.

Conclusion

Based on the above, Royal’s water system is currently in compliance with DEP regulations.

¹²The deficiencies included leaky valves at the wells, a threaded raw water tap, corrosion on the wells, the aerator needed to be cleaned, and the high service pump was leaking. Document No. 04720-2023, filed August 14, 2023.

¹³*Id.*

¹⁴Document No. 05708-2023, filed October 18, 2023.

Issue 3: What are the used and useful (U&U) percentages of Royal’s water treatment plant (WTP), storage, water distribution system, and wastewater collection system?

Recommendation: Staff recommends that Royal’s water treatment, storage, and distribution systems, as well as its wastewater collection system, be considered 100 percent U&U. Additionally, staff recommends no adjustments to purchased power and chemical expenses be made for excessive unaccounted for water (EUW) and infiltration and inflow (I&I). (P. Buys)

Staff Analysis: Rule 25-30.4325, F.A.C., provides factors to be considered in determining U&U and EUW calculations. As stated in Issue 2, Royal’s water system is comprised of three wells with a permitted design capacity of 1,512,000 gpd, and three water tanks with a capacity of 590,000 gallons. Royal’s U&U percentages were last determined by the Commission in Docket No. 19820237-WS.¹⁵

Used and Useful Percentages

Water Treatment Plant

Rule 25-30.4325(5), F.A.C., states that WTP U&U is calculated by dividing the peak demand, which is based on the highest daily usage, by the firm reliable capacity, which is the capacity of all wells excluding the single largest well. Pursuant to Rule 25-30.4325(6)(b), F.A.C., 16 hours of pumping should be used for the calculation when the system has storage. The Utility calculated peak demand to be 679,000 gallons per day (gpd), and firm reliable capacity to be 672,000 gpd. Royal calculated no EUW and a fire flow allowance of 120,000 gpd. In addition, the Utility calculated no growth as the system is built out. The result $([679,000 - 0 + 120,000 + 0]/672,000)$ is greater than 100 percent U&U. Staff agrees with these calculations, and recommends that the water treatment system is 100 percent U&U.

Water Storage

Rule 25-30.4325, F.A.C., states that water storage U&U is calculated by dividing the peak demand by usable storage. A ground storage tank shall be considered 90 percent usable and a hydropneumatic storage tank is considered zero percent usable. As noted in Issue 2, Royal has two ground storage tanks with a total capacity of 580,000 gallons and one hydropneumatic tank with a capacity of 10,000 gallons. The Utility calculated the water storage system to be 470 percent U&U based on a usable storage capacity of 170,000 gallons. Staff’s review removed the hydrodynamic tank from the calculation of usable storage, and using 90 percent usable storage for the ground storage tanks, staff calculated the usable storage value to be 522,000 gallons. The peak demand is 679,000 gallons. Rule 25-30.4325(8), F.A.C., states that if storage capacity is less than the peak demand, the U&U should be considered 100 percent. Therefore, staff recommends the water storage system is 100 percent U&U.

¹⁵Order No. 12170, issued June 24, 1983, in Docket No. 19820237-WS, *In re: Application of University Utility Corporation for an increase in its rates to its customers in Broward County, Florida*.

Water Distribution and Wastewater Collection System

The water distribution and wastewater collection systems are evaluated based on equivalent residential connections (ERCs) consisting of growth, customer demand, and system capacity. There are 410 residential customers and 111 general service customers. The Utility provided system maps that indicated all lots are connected to its water and wastewater systems. Royal considers the service territory to be built out and does not anticipate any additional growth. Considering all of the water mains and wastewater collection systems are required to adequately serve the existing customers, and consistent with prior Commission practice, staff recommends the water distribution and the wastewater collection system be considered 100 percent U&U.

Excessive Unaccounted for Water

Rule 25-30.4325, F.A.C., provides factors to be considered in determining whether adjustments to operating expenses are necessary for EUW. EUW is defined as “unaccounted for water in excess of 10 percent of the amount produced.” Unaccounted for water is all water produced that is not sold, metered, or accounted for in the records of the Utility. Royal estimated no EUW based on producing 132,841,000 gallons, an estimated total sales of 118,679,000 gallons, and 19,750,000 gallons used for other uses, such as flushing, and to back wash the sand filters at the water treatment plant during the test year.¹⁶ Staff’s review confirmed the values for water produced and other uses, and based on the audit report and staff’s review, the actual gallons sold during the test year were 117,540,000 gallons. The resulting calculation $([132,841,000 - 117,540,000 - 19,750,000] / 132,841,000)$ for unaccounted for water is less than zero percent; therefore, the Utility does not have any EUW. Staff recommends no adjustments should be made to purchased power and chemical expenses for EUW and that the EUW is zero percent.

Infiltration and Inflow (I&I)

Infiltration typically results from groundwater entering a wastewater collection system through broken or defective pipes and joints; whereas, inflow results from water entering a wastewater collection system through manholes or lift stations. By convention, the allowance for infiltration is 500 gpd per inch diameter pipe per mile, and an additional 10 percent of residential water billed is allowed for inflow.¹⁷ Rule 25-30.432, F.A.C., provides that in determining the WWTP amount of U&U, the Commission will consider I&I.

Since all wastewater collection systems experience I&I the conventions noted above provide guidance for determining whether the I&I experienced is excessive. Staff calculates the allowable infiltration based on system parameters, and calculates the allowable inflow based on water billed to customers. The sum of these amounts is the allowable I&I. Staff next calculates the estimated amount of wastewater returned from customers. The estimated return is determined by summing 80 percent of the water billed to residential customers with 96 percent of the water billed to non-residential customers. Adding the estimated return to the allowable I&I yields the maximum amount of wastewater that should be treated by the wastewater system without incurring adjustments to operating expenses. If this amount exceeds the actual amount treated, no

¹⁶See Document No. 05708-2023, filed October 18, 2023.

¹⁷See Order No. PSC-16-0525-PAA-WS issued November 21, 2016 in Docket No. 20160030-WS, *In re: Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni. Florida, LLC.* and Order No. PSC-15-0208-PAA-WS issued May 26, 2015 in Docket No. 20140135-WS, *In re: Application for increase in water/wastewater rates in Pasco County by Labrador Utilities, Inc.*

adjustment is made. If it is less than the gallons treated, then the difference is the excessive amount of I&I.

Royal calculated the allowance for infiltration as 10,965,347 gallons and the allowance for inflow as 11,867,900 gallons; therefore, the total I&I allowance was calculated as 22,833,247 gallons. Based on staff's audit and review, the total water billed to residential customers was 50,447,000 gallons, and the total water billed to general service customers was 67,093,000. Therefore, the estimated amount of wastewater returned from customers was calculated as 104,766,880 gallons. Summing the estimated return and the allowable I&I results in a maximum of 127,486,227 gallons of wastewater that should be treated by the wastewater system without incurring adjustments to operating expenses. As stated in Issue 2, Royal does not have a wastewater treatment plant and purchases wastewater treatment from Broward County. The Utility purchased 90,835,000 gallons. Based on the calculation (90,835,000 – 127,486,227), there is no excessive I&I and no adjustment to purchased power and chemicals are recommended.

Conclusion

Staff recommends that Royal's water treatment, storage, and distribution systems, as well as its wastewater collection system should be considered 100 percent U&U. Additionally, staff recommends no adjustments to purchased power and chemical expenses be made for EUW and I&I.

Issue 4: Should any adjustments be made to the Utility's water and wastewater test year rate base?

Recommendation: Yes. The Utility's test year rate base should be decreased by \$1,463 for water and \$2,420 for wastewater. (Richards)

Staff Analysis: Staff made adjustments to the Utility's reported test year working capital. Those adjustments are detailed below.

In MFR Schedule A-17, the Utility recorded a test year working capital balance of \$75,159 for water and \$72,205 for wastewater. In this calculation, the Utility incorrectly included \$3,117 of pro forma expense related to operation and maintenance (O&M) Account 757 during the test year. As discussed in Issue 12, staff recommends a total test year O&M balance of \$589,570 for water and \$558,281 for wastewater. Section 367.081(9), F.S., prohibits a utility from earning a return on the unamortized balance of rate case expense (RCE). Neither the Utility nor staff included RCE in the test year totals. Based on this, staff calculated test year working capital expense of \$73,696 ($\$589,570 \div 8$) for water and \$69,785 ($\$558,281 \div 8$) for wastewater. This resulted in a decrease to the Utility's test year working capital expense of \$1,463 ($\$75,159 - \$73,696$) for water and \$2,420 ($\$72,205 - \$69,785$) for wastewater.

Pro forma adjustments to Royal's Utility Plant in Service (UPIS) and accumulated depreciation are detailed in Issue 5.

Conclusion

Staff recommends reducing the Utility's test year rate base by \$1,463 for water and \$2,420 for wastewater.

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

Recommendation: Yes. Pro forma plant should be increased by \$19,981 for water and decreased by \$28,798 for wastewater. Pro forma accumulated depreciation should be increased by \$469 for water and decreased by \$799 for wastewater. Depreciation expense should also be increased by \$469 for water and decreased by \$799 for wastewater. Additionally, property tax on pro forma plant should be decreased by \$553 for water and \$5,189 for wastewater. Pro forma O&M expenses should be decreased by \$25,443 for water and increased by \$3,086 for wastewater. (P. Buys, Richards)

Staff Analysis: The Utility requested five pro forma plant additions totaling \$85,451 for water, and two pro forma plant additions totaling \$69,065 for wastewater. With these pro forma additions, the Utility requested pro forma accumulated depreciation of \$1,764 for water and \$1,918 for wastewater. These additions are reflected in revised MFR Schedule A-3. The Utility also requested five pro forma additions to O&M expenses totaling \$25,751 for water and \$79,836 for wastewater. These additions are reflected in revised MFR Schedules B-5 and B-6. Each of the Utility's requested pro forma adjustments are discussed below.

Pro Forma Plant Addition Projects

Repaving of Water Treatment Plant (WTP) Parking Lot

Royal requested recovery of costs associated with repaving its WTP parking lot. The Utility stated the WTP parking lot and driveway were in disrepair and there were several areas where the asphalt had been compromised. The repaving project was completed on August 18, 2023. Royal received two quotes for this project, one for \$22,443 and the other for \$52,222. Staff inquired as to why only two quotes were obtained, and Royal stated that it was difficult to get additional quotes for the following reasons: (1) if contractors believed that they would not be awarded the project they would refrain from bidding; (2) supply chain shortages; (3) contractors are not interested in bidding for smaller projects; and (4) employee shortages. There is no retirement associated with this project since the existing pavement was repaved. The Utility provided an invoice for the project totaling \$24,687, which included the cost of the project (\$22,443) and a 10 percent overhead markup by U.S. Water Services Corporation (U.S. Water) for its contractual services. The Utility recorded a cost of \$22,443 for paving the WTP parking lot. Staff recommends increasing plant account 304 by \$2,244 (\$24,687- \$22,443) to cover the full cost of this project.¹⁸

Refurbish WTP Control Panel

Royal refurbished its WTP Control Panel in July 2023 due to faulty alarm signals and the overall poor condition of the panel. The WTP Control Panel monitors and controls various components of the WTP; such as, monitoring the water levels in the tanks and operating the high service pumps, wells, and valves. Royal explained that the refurbished panel provides reliable real-time monitoring. In addition, the new interface allows the operator to control pumps and settings through a digital screen display instead of requiring system changes be completed physically through an analog system. This new control panel will be used with the new Supervisory Control and Data Acquisition (SCADA) system that is being installed at the WTP. Royal received one

¹⁸See Document Nos. 05492-2023, filed October 4, 2023, and 05708-2023, filed October 18, 2023.

quote for this project and repeated the same reasons listed above to explain why three quotes were not obtained for this project. In addition, Royal pointed out that this is a complex and specialized project and not many contractors do this type of work. In its MFRs, the Utility did not request retirement for this project. However, through discovery, Royal agrees with past Commission practice of retiring 75 percent of the new cost; therefore, the retirement amount is \$35,085. The invoice provided by the Utility showed a total project cost of \$46,780, which included the cost of the project (\$42,527) and a 10 percent overhead markup by U.S. Water. The Utility recorded a cost of \$49,500 for refurbishing the WTP control panel. Staff recommends decreasing plant account 320 by \$2,720 (\$49,500 - \$46,780).¹⁹

Influent Meter Replacement

The Utility requested cost recovery for an influent meter replacement. The manufacture of Royal's existing influent meter was discontinued several years ago and replacement parts are no longer available. Royal received one quote for this project for \$4,568, but was unable to obtain two additional quotes for the same reasons previously stated. The new meter was ordered and installed in June 2023. The Utility recorded \$4,600 for the replacement of the influent meter. Based on past Commission practice, equipment retirement is calculated based on 75 percent of the new equipment's cost.²⁰ As such, staff and the Utility agree that the appropriate retirement amount is \$3,426; however, the Utility did not record any retirement in its MFRs. Staff recommends decreasing plant account 309 by \$32 (\$4,600 - \$4,568) to cover the replacement cost of the influent meter.²¹

Generator Radiator Repair

In July 2023, an emergency repair was completed on Royal's main generator that provides back-up power to the WTP, as required by DEP. When the generator was routinely being tested, a leak in the radiator was discovered. The contractor was unable to repair the leak and the radiator had to be refurbished (re-cored), which consists of removing the old leaky core and replacing it with a new clean core. As this was an emergency repair, the Utility only contacted one contractor. The contractor charged \$628 for the first attempt to repair the radiator and \$7,470 to re-core the radiator. U.S. Water billed Royal for this emergency repair with a 10 percent markup, consistent with its operations contract, for a total of \$8,908, which was the total recorded by the Utility for this project. There is no retirement associated with this project as it was a repair to the Utility's existing main generator. Staff recommends no adjustment to the Utility's requested amount for plant account 310.²²

¹⁹See Document Nos. 05492-2023, filed October 4, 2023, 05708-2023, filed October 18, 2023, and 06521-2023, filed December 8, 2023.

²⁰Order Nos. PSC-16-0525-PAA-WS, issued November 21, 2016, in Docket No. 20160030-WS, *In re: Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC.*; PSC-13-0187-PAA-WS, issued May 2, 2013, in Docket No. 20120152-WS, *In re: Applications for increase in water and wastewater rates in Orange County by Pluris Wedgefield, Inc.*; and PSC-11-0587-PAA-SU, issued December 2011, in Docket No. 20110153-SU, *In re: Application for increase in wastewater rates in Lee County by Utilities, Inc. of Eagle Ridge.*

²¹See Document Nos. 05492-2023, filed October 4, 2023 and 05708-2023, filed October 18, 2023.

²²*Id.*

SCADA for WTP

The Utility requested cost recovery for installing SCADA at the WTP. In its MFRs, Royal erroneously included the amount to install the SCADA for the WTP within the Lift Station Control Panel project, which is a separate SCADA project, and is discussed in greater detail below. Royal explained that SCADA systems are focused on control-system operations and have a huge capacity for data collection. The SCADA records the parameters needed to determine how efficiently the system is operating. The WTP SCADA project was completed December 6, 2023. Royal did not acquire three quotes due to the fact that this project is complex and specialized. The cost of the project is \$59,000. There is no retirement for this project as this is a new SCADA system. Staff recommends that \$59,000 should be added to account 320 for this pro forma plant addition.²³

Lift Station Control Panel

The Utility requested cost recovery for installing SCADA at its four lift stations, which was completed the week of December 1, 2023. The SCADA system at the master lift station will communicate with the three smaller lift stations to prevent overflows. Royal did not acquire three quotes due to the fact that this project is complex and specialized. For this project, the Utility recorded a total of \$61,500; however, the quoted price is \$40,267. There is no retirement for this project as this is a new SCADA system. Therefore, staff recommends decreasing plant account 371 by \$21,233 (\$61,500 - \$40,267) for this pro forma plant addition.²⁴

Wire Harness Replacement- Master Lift Station

Royal replaced a wire harness at its master lift station as an emergency repair in order to keep the bypass pump operational to avoid a sewage overflow. The project was completed on May 31, 2023, and Royal received an invoice for \$7,565, which was the total amount recorded by the Utility for this project. The Utility utilized the manufacturer of the bypass pump to complete this repair. Staff does not recommend pro forma cost recovery of this project since it was completed during the test year.²⁵

Tables 5-1 and 5-2 compare the Utility's requested and staff's recommended pro forma cost recovery for each of the Utility's six pro forma projects discussed above. Staff recommends increasing the Utility's adjustments to its pro forma plant additions by \$19,981 for water and decreasing the Utility's adjustment to its pro forma plant by \$28,798 for wastewater. Additionally, Table 5-3 compares the Utility's requested and staff's recommended retirement amounts for the Utility's three applicable projects.

²³See Document Nos. 05492-2023, filed October 4, 2023, and 05708-2023, filed October 18, 2023.

²⁴*Id.*

²⁵*Id.*

**Table 5-1
 Pro Forma Plant Addition Projects – Water System**

Plant Account Number	Project Name	Utility Requested*	Staff Recommendation	Difference
304	Paving of WTP Parking Lot	\$22,443	\$24,687	\$2,244
320	Refurbish WTP Control Panel	\$49,500	\$46,780	(\$2,720)
309	Influent Meter Replacement	\$4,600	\$4,568	(\$32)
310	Generator Radiator Repair	\$8,908	\$8,908	\$0
320	SCADA for WTP	\$0	\$59,000	\$59,000
Total Water Pro Forma Project		\$85,451	\$143,943	\$58,492

Source: Document Nos. 05492-2023, filed October 4, 2023, 05708-2023, filed October 18, 2023, and 06521-2023, filed December 8, 2023

*Utility requested amounts are based on the Utility’s revised A-3 MFR Schedule

**Table 5-2
 Pro Forma Plant Addition Projects – Wastewater System**

Plant Account Number	Project Name	Utility Requested*	Staff Recommendation	Difference
371	Wire Harness Replacement at Master Lift Station**	\$7,565	\$0	(\$7,565)
371	Lift Station Control Panel	\$61,500	\$40,267	(\$21,233)
Total Wastewater Pro Forma Projects		\$69,065	\$40,267	(\$28,798)

Source: Document Nos. 05492-2023, filed October 4, 2023, 05708-2023, filed October 18, 2023, and 06521-2023, filed December 8, 2023

*Utility requested amounts are based on the Utility’s revised A-3 MFR Schedule

**Project completed during test year

**Table 5-3
 Pro Forma Plant Addition Retirements**

Project Name	Utility Requested*	Staff Recommendation
Refurbish WTP Control Panel	\$35,085	\$35,085
Influent Meter Replacement	\$3,450	\$3,426
Wire Harness Replacement at Master List Station**	\$0	\$0

Source: Document Nos. 05492-2023, filed October 4, 2023, 05708-2023, filed October 18, 2023, and 06521-2023, filed December 8, 2023

*Utility requested amounts are based on the Utility’s revised A-3 MFR Schedule

**Project completed during test year

Pro Forma Accumulated Depreciation

Based on the Utility's requested pro forma plant projects described above, Royal recorded \$1,765 in accumulated depreciation for water and \$1,918 for wastewater. With staff's adjustments to pro forma additions above, staff increased accumulated depreciation by \$469 for water and decreased accumulated depreciation for wastewater by \$799.

Pro Forma Depreciation Expense

Staff made corresponding adjustments to pro forma depreciation expense based on the accumulated depreciation adjustments above. Therefore, staff recommends increasing pro forma depreciation expense by \$469 for water and decreasing pro forma depreciation expense for wastewater by \$799.

Property Taxes Associated With Pro Forma Projects

On MFR Schedule B-15, the Utility recorded property tax on pro forma plant as \$2,570 for water and \$5,954 for wastewater. Based on staff's recommended adjustments above, staff recommends reducing taxes other than income (TOTI) by \$553 for water and \$5,189 for wastewater to reflect the appropriate property taxes associated with pro forma plant.

Pro Forma O&M Expenses

The Utility recorded pro forma O&M expense of \$25,751 for water and \$79,836 for wastewater, respectively. These pro forma expenses included an increase in the U.S. Water contract cost, an increased cost of purchased sewage treatment, an increase in insurance premiums, rate case expense, and the removal of lime for the water system. Staff made no adjustments to the U.S. Water contract or purchased sewage treatment costs.

Insurance Expense

The Utility recorded insurance expense of \$3,117 for wastewater during the test year. This amount reflects an increase in the insurance premium going forward, so it should be included as pro forma, not during the test year. Staff made a test year adjustment decreasing the wastewater insurance expense by \$3,117 and increasing wastewater pro forma expense by \$3,117. Staff made no adjustments to the water system, as the \$3,117 insurance premium increase was correctly recorded as pro forma by the Utility.

Rate Case Expense

Staff recalculated rate case expense (RCE) and allocated the costs between the water and wastewater systems based on the number of customers. As such, staff increased RCE by \$526 for water and decreased RCE by \$31 for wastewater.

Miscellaneous Expense

Royal cleans its discharge ponds to remove lime buildup on an as-needed basis or approximately every two years based on the water quality and water demand. The Utility provided three quotes for the cleaning service. The first quote of \$43,247 is based on the removal of 1,444 cubic yards (Cu/Yd) of lime at \$24.95 per Cu/Yd and a 20 percent allowance for overages. The second quote consists of \$6,000 plus a price per Cu/Yd of \$24.90 for the removed lime. The third quote is a flat amount of \$70,550 to complete the work. The Utility chose the second contractor to

complete the work. That contractor removed 2,244 Cu/Yd of lime. The project was completed on August 18, 2023, and the invoice was for \$68,063 which includes a 10 percent markup for the contractual services of U.S. Water. The Utility recorded a cost of \$60,000 for this project. Staff recommends an expense of \$68,063, which covers the full cost of the lime removal. The Utility did not amortize this amount; however, both the Utility and staff agree that this amount should be amortized over a two-year period, equaling \$34,031 ($\$68,063 \div 2$).²⁶ Therefore, staff decreased miscellaneous expense for water by \$25,969 ($\$60,000 - \$34,031$).

Conclusion

Staff increased UPIS by \$58,492 for water, which was partially offset by a retirement of \$38,511, resulting in a net increase of \$19,981 ($\$58,492 - \$38,511$). Staff decreased UPIS by \$28,798 for wastewater to reflect pro forma adjustments. Also, staff increased accumulated depreciation by \$469 for water, and decreased accumulated depreciation for wastewater by \$799. Corresponding adjustments were also made increasing depreciation expense by \$469 for water; and decreasing depreciation expense for wastewater by \$799. Additionally, staff decreased property taxes associated with pro forma by \$553 for water and \$5,189 for wastewater. Finally, staff decreased pro forma O&M expenses by \$25,443 for water and increased pro forma expenses by \$3,086 for wastewater.

²⁶Document Nos. 05492-2023, filed October 4, 2023; 05708-2023, filed October 18, 2023; 06042-2023, filed November 10, 2023; and 06521-2023, filed December 8, 2023.

Issue 6: What is the appropriate rate base for the test year ended May 31, 2023?

Recommendation: Consistent with staff's recommended adjustments, the appropriate rate base for the test year ended May 31, 2023, is \$1,097,810 for water and \$485,348 for wastewater. (Richards)

Staff Analysis: In its MFRs, the Utility requested a rate base of \$1,083,114 for water and \$515,481 for wastewater. Based on staff's previously recommended adjustments, the resulting rate base is \$1,097,810 for water and \$485,348 for wastewater. The rate base schedules are attached as Schedule Nos. 1-A and 1-B for water and wastewater, respectively. Adjustments to rate base are shown on Schedule No. 1-C.

Issue 7: What is the appropriate return on equity (ROE)?

Recommendation: Based on the Commission's leverage formula currently in effect, the appropriate ROE for the Utility is 9.71 percent. (Richards)

Staff Analysis: The ROE included in the Utility's MFR Schedule D-1 is 9.70 percent. Based on the current leverage formula in effect, and the Utility's equity ratio of 54.11 percent, the appropriate ROE is 9.71 percent.²⁷ Staff recommends an allowed range of plus or minus 100 basis points be recognized for earnings purposes.

Conclusion

The appropriate ROE for the Utility is 9.71 percent.

²⁷Order No. PSC-2023-0189-PAA-WS, issued June 28, 2023, in Docket No. 20230006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

Issue 8: What is the appropriate weighted average cost of capital based on the proper components, amounts, and cost rates associated with the capital structure for the test year ended May 31, 2023?

Recommendation: The appropriate weighted average cost of capital for the test year ended May 31, 2023, is 6.74 percent. (Richards)

Staff Analysis: In its filing, the Utility requested an overall cost of capital of 6.74 percent. The Utility's capital structure consists of long-term debt, common equity, and customer deposits. Based upon the proper components, amounts, and cost rates associated with the capital structure, staff recommends a weighted average cost of capital of 6.74 percent. Schedule No. 2 details staff's recommended overall cost of capital.

Conclusion

The appropriate weighted average cost of capital for the test year ended May 31, 2023, is 6.74 percent.

Issue 9: What are the appropriate amounts of test year operating revenues for Royal's water and wastewater systems?

Recommendation: The appropriate amount of test year operating revenues for Royal's systems are \$770,246 for water and \$751,928 for wastewater. (Bruce)

Staff Analysis: In its revised MFRs, Royal's test year operating revenues were \$734,186 for water and \$761,470 for wastewater. The water revenues included \$727,552 of service revenues and \$6,635 of miscellaneous revenues. The wastewater revenues consisted of service revenues of \$761,470. The Utility was approved for a price index increase effective June 3, 2023. Therefore, staff annualized test year operating revenues by applying the number of billing determinants for water and wastewater. As a result, staff determined that service revenues for water should be \$763,998, which is an increase of \$36,446 ($\$763,998 - \$727,552$). The service revenues for wastewater should be \$751,928, which is a decrease of \$9,542 ($\$761,470 - \$751,928$).

For miscellaneous revenues, staff determined the appropriate amount to be \$6,248 based on the number of miscellaneous occurrences during the test year. Staff reduced miscellaneous revenues by \$387 ($\$6,635 - \$6,248$). Based on the above, the appropriate test year revenues for the Utility's water system, including miscellaneous revenues, are \$770,246 ($\$763,998 + \$6,248$) and \$751,928 for the wastewater system.

Issue 10: Should any adjustments be made to the Utility’s water and wastewater O&M expenses?

Recommendation: Yes. O&M expenses should be decreased by \$37,144 for water and \$16,277 for wastewater. (Richards)

Staff Analysis: Based on its review of the Utility’s O&M expenses, staff recommends several adjustments as summarized below.

Salaries & Wages – Officers (603/703)

In its filing, the Utility recorded officer’s salaries and wages of \$30,000 for water and \$28,000 for wastewater. Using 2022 Annual Reports, OPC, in a letter sent to the Commission Clerk and included in the docket file, stated that the President’s collective salary was \$205,850 for 52 percent of time spent on Florida Community Water Systems, Inc., Sunny Hills Utility Company, Seminole Waterworks Inc., Royal Waterworks, Inc. and HC Waterworks, Inc. At 100 percent time spent, an effective annual salary would equate to \$395,865. Furthermore, OPC noted that assuming 10 percent of the President’s time spent is on the remaining systems there would be 38 percent of time remaining to devote to other positions. These positions include serving as the Chief Executive Officer of the US Water Services Corporation as well as upper management in 10 other companies.

In response to OPC’s concerns, Royal argued the salary is much less when you take into consideration items that are a responsibility of the Officer, but not included in their salary, such as insurance, tax, retirement benefits, and expenses while on the job. Also, the Utility noted that geographical location should be considered, as the service territory of Royal and its sister utilities span as far north as Okaloosa County down to Broward County. Furthermore, Royal argued that OPC’s suggested salary of \$6,244 and \$7,551 is unrealistic and would make it impossible to hire a qualified President like Mr. Deremer.

OPC suggested that any recommended salary amount be allocated “based on the number of customers or ERCs of Royal and its sister jurisdictional and non-jurisdictional companies.”²⁸ In response to Staff’s Fourth Data Request, the Utility stated the total number of ERCs under U.S. Water ownership is 12,643.²⁹ This amount reflects both jurisdictional (11,280.5) and non-jurisdictional (1,362.5) companies. Royal is the largest of all U.S. Water-affiliated companies, either jurisdictional or non-jurisdictional, and makes up 18.95 percent of the total ERCs. Of that, 59.83 percent are allocated to water, and 40.17 percent are allocated to wastewater.

To remain consistent with prior Commission-approved salaries for U.S. Water-affiliated systems, staff used the most recent U.S. Water-affiliated rate case, which involved LP Waterworks, Inc. (LP).³⁰ In that rate case, the Commission approved an owner’s salary of \$6,300. Staff notes that in that rate case, only the water system was included. The water system for LP makes up 56.27 percent of the entire utility. Therefore, staff calculated a total owner’s salary for LP of \$11,196

²⁸Document No. 06694-2023, filed December 20, 2023.

²⁹Document No. 06645-2023, filed December 18, 2023.

³⁰Order No. PSC-2023-0101-PAA-WS, issued February 28, 2023, in Docket No. 20220099-WS, *In re: Application for staff-assisted rate case in Highlands County by LP Waterworks, Inc.*

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(\$6,300 ÷ 56.27 percent) based on the Commission-approved amount in 2023. According to the Utility's response to Staff's Fourth Data Request, LP comprises 7.04 percent of all U.S. Water-affiliated companies.

To calculate a total amount of owner's salary for all U.S. Water-affiliated systems, staff set 7.04 percent of the amount at \$11,196. This calculation provided an owner's salary for all U.S. Water-affiliated systems of \$159,034 ($\$11,196 \div 7.04$ percent). As stated earlier, Royal represents 18.95 percent of U.S. Water, calculating to an owner's salary for Royal of \$30,137 ($\$159,034 \times 18.95$ percent). Split between water (59.83 percent) and wastewater (40.17 percent), staff recommends owner's salary of \$18,031 for water and \$12,106 for wastewater. Staff's recommended amounts result in a decrease of \$11,969 for water, and a decrease of \$15,894 for wastewater.

Contractual Services – Accounting (632/732)

In its filing, the Utility recorded contractual services – accounting expenses of \$450 for water and \$450 for wastewater. As part of Audit Finding 1, staff determined the Utility had duplicative charges in the amount of \$200 for each system. Based on this, staff decreased contractual services – accounting by \$200 for water, and \$200 for wastewater. Staff recommends contractual services – accounting expense of \$250 for water and \$250 for wastewater.

Contractual Services – Legal (633/733)

In its filing, the Utility recorded contractual services – legal expenses of \$350 for water and \$350 for wastewater. As part of Audit Finding 1, staff determined the Utility had duplicative charges in the amount of \$200 for each system. Based on this, staff decreased contractual services – legal by \$200 for water, and \$200 for wastewater. Staff recommends contractual services – legal expense of \$150 for water and \$150 for wastewater.

Contractual Services – Other (636/736)

In its filing, the Utility recorded contractual services – other expenses of \$396,688 for water and \$213,700 for wastewater. As part of Audit Finding 1, staff determined \$26 was erroneously recorded in water, when it should have been recorded to wastewater. Staff decreased contractual services – other by \$26 for water and increased contractual services – other by \$26 for wastewater.

Insurance Expense (657/757)

In its filing, the utility recorded insurance expenses of \$7,796 for water and \$7,796 for wastewater. As part of Audit Finding 1, staff determined the Utility's recorded amount was understated by \$358 for each system. Staff determined \$336 for storage tank insurance was erroneously recorded for wastewater, when it should have been recorded to water. Additionally, as discussed in Issue 7, the Utility recorded \$3,117 during the test year for a wastewater insurance premium increase. This amount should be recorded as a pro forma expense. Therefore, staff decreased O&M Account 758 by \$3,117 during the test year and reclassified it as pro forma. In total, staff increased insurance expense by \$694 ($\$358 + \336) for water and decreased insurance expense by \$3,095 ($\$358 - \$336 - \$3,117$) for wastewater.

Test Year O&M Adjustments

As described above and summarized in Table 10-1, staff recommends a decrease of \$11,701 for water, and a decrease of \$19,363 for wastewater.

Table 10-1
Staff Adjustments to O&M

<u>Account</u>	<u>Water</u>	<u>Wastewater</u>
Salaries & Wages – Officers	(\$11,969)	(\$15,894)
Contractual Services – Accounting	(200)	(200)
Contractual Services – Legal	(200)	(200)
Contractual Services – Other	(26)	26
Insurance Expense	694	(3,095)
Total Test Year O&M Adjustments	<u>(\$11,701)</u>	<u>(\$19,363)</u>

Source: Staff's calculations.

Pro Forma O&M Expenses

As discussed in Issue 5, staff decreased pro forma O&M expenses by \$25,443 for water and increased pro forma O&M expenses by \$3,086 for wastewater.

Conclusion

Based on the above adjustments, staff recommends an O&M decrease of \$37,144 (\$11,701 + \$25,443) for water and a decrease of \$16,277 (\$19,363 - \$3,086) for wastewater.

Issue 11: Should further adjustments be made to the Utility's operating expense?

Recommendation: Yes. The Utility's operating expenses should be further increased by \$1,313 for water and further decreased by \$3,277 for wastewater. (Richards)

Staff Analysis: Staff made several adjustments to the Utility's operating expenses which are detailed below.

Net Depreciation Expense

In its filing, the Utility recorded test year net depreciation expense of \$71,194 for water and \$45,560 for wastewater.³¹ Staff increased this amount by \$91 for water and \$1,371 for wastewater to reflect the appropriate test year depreciation expense. As discussed in Issue 5, staff further increased depreciation expense by \$469 for water while decreasing depreciation expense by \$799 for wastewater to reflect the appropriate depreciation expense associated with pro forma additions. Therefore, staff increased net depreciation expense by \$560 ($\$91 + \469) for water and \$572 ($\$1,371 - \799) for wastewater.

Taxes Other Than Income

In MFR Schedule B-15, the Utility recorded property taxes of \$28,272 for water and \$31,656 for wastewater. These amounts included property taxes associated with pro forma. As discussed in Issue 5, staff decreased property taxes associated with pro forma by \$553 for water and \$5,189 for wastewater. In addition to property taxes, the Utility recorded Regulatory Assessment Fees (RAFs) on test year revenues of \$34,664 for water and \$33,837 for wastewater. As discussed in Issue 9, staff made an adjustment decreasing test year revenues by \$59 for water. To reflect this decrease, staff reduced RAFs on the test year revenues by \$3. No adjustment was made to wastewater revenues. These adjustments resulted in a net decrease of \$556 ($\$553 + \3) for water, and \$5,189 for wastewater.

Additionally, as discussed in Issue 13, staff recommends revenues be increased by \$29,099 for water and \$29,778 for wastewater in order to reflect the change in revenue required to cover expenses and allow an opportunity to earn the recommended rate of return. As a result, TOTI should be increased by \$1,309 for water and \$1,340 for wastewater to reflect RAFs of 4.5 percent on the recommended change in revenues.

Conclusion

Based on the adjustments above, staff recommends further increasing the Utility's test year operating expenses by \$1,313 ($\$560 - \$556 + \$1,309$) for water and further decreasing operating expenses by \$3,277 ($\$572 - \$5,189 + \$1,340$) for wastewater.

³¹Net depreciation expense for the water system included \$71,266 for depreciation and (\$72) for amortization of Contribution-in-Aid of Construction (CIAC).

Issue 12: What are the appropriate operating expenses for the test year ended May 31, 2023?

Recommendation: Consistent with staff's recommended adjustments, the appropriate operating expenses for the test year ended May 31, 2023, are \$725,319 for water and \$748,979 for wastewater. (Richards)

Staff Analysis: In its MFRs, the Utility recorded operating expenses of \$761,150 for water and \$768,533 for wastewater. Based on staff's previously recommended adjustments, the appropriate operating expenses are \$725,319 for water and \$748,979 for wastewater. Water and wastewater operating expenses are shown on Schedule Nos. 3-A and 3-B, respectively. Adjustments to operating expenses are shown on Schedule No. 3-C.

Conclusion

The appropriate operating expenses for the test year ended May 31, 2023, are \$725,319 for water and \$748,979 for wastewater.

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Issue 13: What are the appropriate revenue requirements for the test year ended May 31, 2023?

Recommendation: Staff recommends a revenue requirement of \$799,345 be approved for water, and \$781,706 be approved for wastewater. (Richards)

Table 13-1
Staff’s Recommended Revenue Requirement – Water

<u>Test Year</u> <u>Revenue</u>	<u>\$ Increase</u>	<u>Revenue</u> <u>Requirement</u>	<u>% Increase</u>
\$770,246	\$29,099	\$799,345	3.78%

Source: Staff’s calculations.

Table 13-2
Staff’s Recommended Revenue Requirement – Wastewater

<u>Test Year</u> <u>Revenue</u>	<u>\$ Increase</u>	<u>Revenue</u> <u>Requirement</u>	<u>% Increase</u>
\$751,928	\$29,778	\$781,706	3.96%

Source: Staff’s calculations.

Staff Analysis: In its filing, the Utility requested an annual revenue requirement of \$837,140 for water and \$805,685 for wastewater. These requested revenues represent an increase of \$66,835 (or 8.68 percent) for water and \$53,757 (or 7.15 percent) for wastewater. Consistent with its recommendations concerning rate base, cost of capital, and operating income issues, staff recommends a revenue requirement of \$799,345 for water and \$781,706 for wastewater.

Conclusion

Staff recommends a revenue requirement of \$799,345 for water and \$781,706 for wastewater be approved for the test year ended May 31, 2023.

Issue 14: What are the appropriate rate structures and rates for Royal's water and wastewater systems?

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

Staff Analysis: Royal Waterworks is located in Broward County within the South Florida Water Management District. The Utility provides water service to 410 residential customers with 400 of the customers having a separate meter for irrigation. There are 111 general service customers, which consists of multi-family customers, gas stations, banks, restaurants, beauty parlors, dentists, and other various businesses. According to the billing data, approximately 29 percent of the residential customer bills during the test year had zero gallons, indicating a seasonal customer base. The average residential water demand is 5,210 gallons. The average residential water demand excluding zero gallon bills is 7,369 gallons per month. Currently, the Utility's water rate structure for the residential and general service classes consist of a traditional monthly base facility charge (BFC) and uniform gallonage charge. In addition, the utility has private fire protection rates.

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

For this case, staff recommends that 35 percent of the water revenues be generated from the BFC, which will provide sufficient revenues to design gallonage charges that sends the appropriate pricing signals to the customers using above the non-discretionary level. The average people per household served by the water system is 2.6;³² 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. Staff's review of the billing data indicates that discretionary usage above 4,000 gallons represents approximately 34 percent of the bills, which account for approximately 56 percent of water demand. This indicates that there is a significant amount of discretionary usage above 4,000 gallons.

In its MFRs, the Utility proposed a continuation of the monthly traditional BFC and uniform gallonage charge for its residential and general service classes. As indicated in Issue 13, staff's recommended revenue requirement increase is 3.78 percent. Typically, when the revenue

³²Average person per household was obtained from website: www.census.gov/quickfacts/Browardcountyflorida.

requirement is less than 20 percent, staff does an across-the-board increase to the existing rates. However, in this case, staff is recommending redesigning the rates because Royal’s meter equivalents are incorrect. The meter equivalents for Royal’s existing rates are not based on the American Water Works Association (AWWA) meter equivalents, which are contained in Rule 25-30.055, F.A.C., and used by the Commission when designing rates. Also, the Utility’s proposed final water rates are consistent with the AWWA meter equivalents.

The meter equivalents assign the demand on a system as well as cost recovery by meter size in terms of equivalent residential connections (ERCs). In comparison to the AWWA meter equivalents, Royal’s meter equivalents for larger meter sizes are significantly higher than the AWWA. Redesigning rates based on the AWWA meter equivalents distributes the cost recovery to the appropriate meter sizes. If this proceeding were a revenue-neutral rate restructuring to fix the meter equivalents, using the Utility’s existing BFC and gallonage revenue recovery percentages would result in a BFC of \$22.06 for the 5/8 inch x 3/4 inch meter size (compared to the existing BFC of \$13.29). Absent this correction to the meter equivalents, the customers at the larger meter sizes would continue to subsidize the customers at the 5/8 inch x 3/4 inch meter size. Although the overall revenue increase is 3.78 percent, correcting the meter equivalents creates a higher percentage increase to the overall bill for customers with 5/8 inch x 3/4 inch meter sizes. The table below shows a comparison of the AWWA meter equivalents to Royal’s existing meter equivalents.

**Table 14-1
 Comparison of ERCs**

Meter Sizes	AWWA	Royal
5/8” x 3/4”	1	1
1”	2.5	6.8
1-1/2”	5	13.6
2”	8	21.8
3”	15	43.6

Source: Rule 25-30.055, F.A.C., and Royal’s tariff rates

In addition to correcting the meter equivalents, staff evaluated designing an inclining block rate structure due to high discretionary usage. Staff assumed that a three-tier inclining block was appropriate. However, a three-tier inclining block rate structure resulted in lower percentage price increases at discretionary levels of consumption, which is contrary to the Commission’s rate design goals due to staff’s recommended low revenue requirement increase. For this reason, staff recommends a two-tier inclining block rate structure, which includes separate gallonage charges for non-discretionary and discretionary usage for residential water rates. The rate blocks are: (1) 0 - 4,000 gallons; and (2) all usage in excess of 4,000 gallons per month. Staff’s recommended rate structure will target those customers with higher levels of consumption. General service customers should continue to be billed a BFC and uniform gallonage charge. Under Rule 25-30.465, F.A.C., private fire protection customers should be billed one-twelfth of the BFC for the respective meter size.

Based on staff's recommended revenue increase of 3.8 percent, which excludes miscellaneous revenues,³³ the residential consumption can be expected to decline by 3,156 gallons resulting in an anticipated average residential demand of 4,884 gallons per month. Staff recommends a 6.3 percent reduction in test year residential gallons for ratesetting purposes. As a result, the corresponding reductions for purchased power expense is \$1,158, \$1,948 for chemicals expense, and \$146 for RAFs to reflect the anticipated repression, which results in a post-repression revenue requirement of \$788,910.

Wastewater Rates

The Utility provides wastewater service to 410 residential customers and 111 general service customers. As mentioned earlier, the general service customers consists of various types of businesses. Currently, the residential wastewater rate structure consists of a uniform BFC for all meter sizes and a gallonage charge with a 10,000 gallon cap. The general service rate structure consists of a uniform BFC for all meter sizes and a gallonage charge that is 1.2 times higher than the residential gallonage charge.

Staff performed an analysis of the Utility's billing data to evaluate various BFC cost recovery percentages and gallonage caps for the residential customers. The goal of the evaluation was to select the rate design parameters that: (1) produce the recommended revenue requirement; (2) equitably distribute cost recovery among the Utility's customers; and (3) if appropriate, implement a gallonage cap that considers approximately the amount of water that may return to the wastewater system.

Similarly to the water rates, the meter equivalents are not based on the AWWA meter equivalents for the wastewater rates. If this proceeding were a revenue neutral-rate restructuring to fix the meter equivalents, using the Utility's existing BFC and gallonage revenue recovery percentages would result in a BFC of \$26.33 for the 5/8 inch x 3/4 inch meter size (compared to its existing \$13.45). Therefore, staff redesigned the wastewater rates to be consistent with the AWWA meter equivalents. Also, the Utility's proposed final wastewater rates are consistent with the AWWA meter equivalents.

Consistent with Commission practice, staff allocated 50 percent of the wastewater revenue to the BFC due to the capital intensive nature of wastewater plants. The Utility's current wastewater gallonage cap is set at 10,000 gallons per month. 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 cap at approximately 80 percent of residential water sold, which typically results in gallonage caps of 6,000, 8,000, or 10,000. Based on staff's review of the billing analysis, 85 percent of the gallons are captured at the 8,000 gallon consumption level. Therefore, staff recommends that the gallonage cap for residential customers be reduced to 8,000 gallons. Staff also recommends that the general service gallonage charge continue to be 1.2 times greater than the residential gallonage charge, which is consistent with Commission practice.

³³For ratesetting purposes, staff increased miscellaneous revenues to reflect the recommended change to miscellaneous service charges in Issue 17.

In addition, wastewater rates are calculated on customers' water demand; If those customers' water demand is expected to decline due to repression; then the billing determinants used to calculate wastewater rates should be adjusted accordingly. In determining the number of wastewater gallons subject to repression, staff uses the gallons between the non-discretionary threshold and the wastewater gallonage cap and applies the percentage reduction in water gallons. In this case, the result is a .29 percent reduction to the wastewater gallons for ratesetting purposes, which is de minimis.

Conclusion

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

Issue 15: What are the appropriate initial customer deposits for Royal's water and wastewater systems?

Recommendation: The appropriate initial customer deposits for the residential 5/8 inch x 3/4 inch meter size should be \$76 for water and \$111 for wastewater. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill. The approved initial customer deposits should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding. (Bruce)

Staff Analysis: Rule 25-30.311, F.A.C., provides the criteria for collecting, administering, and refunding customer deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the Utility and, ultimately, the general body of ratepayers. An initial customer deposit ensures that the cost of providing service is recovered from the cost causer. Historically, the Commission has set initial customer deposits equal to two times the average estimated bill. Currently, the Utility's initial customer deposit for the 5/8 inch x 3/4 inch meter size is \$62.26 for water and \$79.08 for wastewater. However, these amounts do not cover two months' average bills based on staff's recommended rates. The Utility's anticipated post-repression average monthly residential usage is 4,884 gallons per customer. Therefore, the average residential monthly bill is approximately \$38.22 for water and \$55.54 for wastewater service based on staff's recommended rates.

Conclusion

Staff recommends the appropriate initial customer deposits for the residential 5/8 inch x 3/4 inch meter size should be \$76 for water and \$111 for wastewater. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill. The approved initial customer deposits should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding.

Issue 16: Should the Commission discontinue Royal's guaranteed revenue charge?

Recommendation: Yes. The Commission should discontinue Royal's guaranteed revenue charge. (Bruce)

Staff Analysis: According to its tariff, Royal currently has a guaranteed revenue charge, which was approved prior to 1983. A guaranteed revenue charge is designed to help the Utility recover a portion of its cost from the time capacity is reserved until a customer begins to pay monthly service charges. However, the service area is built out; therefore, the charge is obsolete. For this reason, staff recommends that this charge be discontinued.

Issue 17: Should Royal’s miscellaneous service charges be revised to conform to amended Rule 25-30.460, F.A.C.?

Recommendation: The miscellaneous service charges should be revised to conform to the recent amendment to Rule 25-30.460, F.A.C. The tariff should be revised to reflect the removal of initial connection and normal reconnection charges. The Utility should be required to file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Bruce)

Staff Analysis: Effective June 24, 2021, Rule 25-30.460, F.A.C., was amended to remove initial connection and normal reconnection charges.³⁴ The definitions for initial connection charges and normal reconnection charges were subsumed in the definition of the premises visit charge. The Utility’s existing miscellaneous service charges consist of initial connection and normal reconnection charges.³⁵ The normal reconnection charge is more than the premises visit charge. Since the premises visit entails a broader range of tasks, staff believes the premises visit should reflect the amount of the normal reconnection charge of \$60.50 for normal hours. Therefore, staff recommends that the initial connection and normal reconnection charges be removed, the premises visit should be revised to \$60.50 for normal hours, and the definition for the premises visit charge be updated to comply with amended Rule 25-30.460, F.A.C. This recommended change to miscellaneous service charges results in an increase in miscellaneous revenues of \$936 on a prospective basis, which results in total miscellaneous revenues of \$7,184. The Utility’s existing and staff’s recommended miscellaneous service charges are shown below in Tables 17-1 and 17-2.

**Table 17-1
 Utility’s Existing Miscellaneous Service Charges**

	<u>Normal Hours</u>	<u>After Hours</u>
Initial Connection Charge	\$32.96	\$38.36
Normal Reconnection Charge	\$60.50	\$68.56
Violation Reconnection Charge - Water	\$60.50	\$68.56
Violation Reconnection Charge - Wastewater	Actual Cost	Actual Cost
Premises Visit Charge (in lieu of disconnection)	\$32.96	\$38.36

Source: The Utility’s current tariffs.

³⁴Order No. PSC-2021-0201-FOF-WS, issued June 4, 2021, in Docket No. 20200240-WS, *In re: Proposed amendment of Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges.*

³⁵Per the Utility’s current tariff, the after-hours miscellaneous service charges for the water system are incorrect due to scrivener’s error. The after-hour charges shown in Table 17-1 have been updated to reflect the correct amounts.

Table 17-2
Staff Recommended Miscellaneous Service Charges

	<u>Normal Hours</u>	<u>After Hours</u>
Violation Reconnection Charge - Water	\$60.50	\$68.56
Violation Reconnection Charge - Wastewater	Actual Cost	Actual Cost
Premise Visit Charge	\$60.50	\$68.56

Conclusion

Based on the above, staff recommends the miscellaneous service charges be revised to conform to the recent amendment to Rule 25-30.460, F.A.C. The tariff should be revised to reflect the removal of initial connection and normal reconnection charges. The Utility should be required to file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. The Utility should be required to charge the approved miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding

Issue 18: What is the appropriate amount by which rates should be reduced to reflect the removal of amortized rate case expense for water and wastewater, as required by Section 367.081(8), F.S.?

Recommendation: The water and wastewater rates should be reduced, as shown in Schedule Nos. 4-A and 4-B respectively, to remove the annual amortization of rate case expense grossed-up for RAFs. The decrease in rates should become effective immediately following the expiration of the rate case expense recovery period. Royal should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Bruce, Richards)

Staff Analysis: The water and wastewater rates should be reduced, as shown in Schedule Nos. 4-A and 4-B respectively, to remove the annual amortization of rate case expense grossed-up for RAFs. The decrease in rates should become effective immediately following the expiration of the rate case expense recovery period. Royal should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Issue 19: Should any portion of the interim water or wastewater revenue increases granted be refunded?

Recommendation: No interim revenue increases were granted in this rate case; therefore, no refund of interim rates is appropriate. (Richards)

Staff Analysis: No. Interim revenue increases were granted in this rate case. On August 22, 2023, the Utility withdrew its request for interim rate relief.³⁶ Therefore, no refund of interim rates is appropriate.

³⁶Document No. 04917-2023, filed August 22, 2023.

Issue 20: Should the Utility be required to notify, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Commissioners Uniform System of Accounts (NARUC USOA) associated with the Commission-approved adjustments?

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

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

Issue 21: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, a Consummating Order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and the Utility has provided staff with proof that the adjustments for all applicable NARUC USOA accounts have been made. Once these actions are complete, this docket should be closed administratively. (Stiller)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, a Consummating Order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and the Utility has provided staff with proof that the adjustments for all applicable NARUC USOA accounts have been made. Once these actions are complete, this docket should be closed administratively.

ROYAL WATERWORKS, INC.				SCHEDULE NO. 1-A		
TEST YEAR ENDED MAY 31, 2023				DOCKET NO. 20230081-WS		
SCHEDULE OF WATER RATE BASE						
Description	Test Year Per Utility	Pro Forma Per Utility	Total Per Utility	Staff Adj. To Test Year	Staff Adj. To Pro Forma	Total Per Staff
1. UTILITY PLANT IN SERVICE	\$3,591,705	\$85,451	\$3,677,156	\$0	\$19,981	\$3,697,137
2. LAND AND LAND RIGHTS	76,123	0	76,123	0	0	76,123
3. NON-USED AND USEFUL	0	0	0	0	0	0
4. ACCUMULATED DEPRECIATION	(2,743,508)	(1,765)	(2,745,273)	0	(469)	(2,745,742)
5. CIAC	(575,123)	0	(575,123)	0	0	(575,123)
6. ACCUMULATED AMORTIZATION OF CIAC	571,853	0	571,853	0	0	571,853
7. WORKING CAPITAL ALLOWANCE	<u>75,159</u>	<u>3,219</u>	<u>78,378</u>	<u>(1,463)</u>	<u>(3,354)</u>	<u>73,561</u>
8. TOTAL WATER RATE BASE	<u>\$996,209</u>	<u>\$86,905</u>	<u>\$1,083,114</u>	<u>(\$1,463)</u>	<u>\$16,159</u>	<u>\$1,097,810</u>

ROYAL WATERWORKS, INC.				SCHEDULE NO. 1-B		
TEST YEAR ENDED MAY 31, 2023				DOCKET NO. 20230081-WS		
SCHEDULE OF WASTEWATER RATE BASE						
Description	Test Year Per Utility	Pro Forma Per Utility	Total Per Utility	Staff Adj. To Test Year	Staff Adj. To Pro Forma	Total Per Staff
1. UTILITY PLANT IN SERVICE	\$1,919,789	\$69,065	\$1,988,854	\$0	(\$28,798)	\$1,960,056
2. LAND AND LAND RIGHTS	71,802	0	71,802	0	0	71,802
3. NON-USED AND USEFUL	0	0	0	0	0	0
4. ACCUMULATED DEPRECIATION	(1,625,442)	(1,918)	(1,627,360)	0	799	(1,626,561)
5. CIAC	(238,921)	0	(238,921)	0	0	(238,921)
6. ACCUMULATED AMORTIZATION OF CIAC	238,921	0	238,921	0	0	238,921
7. WORKING CAPITAL ALLOWANCE	<u>72,206</u>	<u>9,980</u>	<u>82,185</u>	<u>(2,420)</u>	<u>287</u>	<u>80,052</u>
8. TOTAL WASTEWATER RATE BASE	<u>\$438,355</u>	<u>\$77,127</u>	<u>\$515,481</u>	<u>(\$2,420)</u>	<u>(\$27,712)</u>	<u>\$485,348</u>

ROYAL WATERWORKS, INC.	SCHEDULE NO. 1-C	
TEST YEAR ENDED MAY 31, 2023	DOCKET NO. 20230081-WS	
SCHEDULE OF ADJUSTMENTS TO RATE BASE		
	<u>Water</u>	<u>Wastewater</u>
UTILITY PLANT IN SERVICE		
To reflect appropriate pro forma additions.	\$58,492	(\$28,798)
To reflect appropriate pro forma retirements.	<u>(38,511)</u>	<u>0</u>
Subtotal	<u>\$19,981</u>	<u>(\$28,798)</u>
ACCUMULATED DEPRECIATION		
To reflect appropriate pro forma additions.	<u>(\$469)</u>	<u>\$799</u>
WORKING CAPITAL ALLOWANCE		
To reflect 1/8 test year O&M expense less RCE.	(\$1,463)	(\$2,420)
To reflect 1/8 pro forma O&M expense less RCE.	<u>(3,354)</u>	<u>287</u>
Subtotal	<u>(\$4,816)</u>	<u>(\$2,133)</u>
TOTAL ADJUSTMENTS TO RATE BASE	<u>\$14,696</u>	<u>(\$30,133)</u>

ROYAL WATERWORKS, INC.						SCHEDULE NO. 2		
TEST YEAR ENDED MAY 31, 2023						DOCKET NO. 20230081-WS		
SCHEDULE OF CAPITAL STRUCTURE								
<u>Capital Component</u>	<u>Total Capital</u>	<u>Specific Adjustments</u>	<u>Balance After Adjustments</u>	<u>Pro Rata Adjustments</u>	<u>Capital Reconciled To Rate Base</u>	<u>Percent Of Total</u>	<u>Cost</u>	<u>Weighted Cost</u>
<u>PER UTILITY</u>								
1. LONG-TERM DEBT	\$1,118,106	\$0	\$1,118,106	(\$389,816)	\$728,290	45.56%	3.25%	1.48%
2. COMMON EQUITY	1,327,999	0	1,327,999	(462,993)	865,006	54.11%	9.70%	5.25%
3. CUSTOMER DEPOSITS	<u>8,129</u>	<u>0</u>	<u>8,129</u>	<u>(2,834)</u>	<u>5,295</u>	<u>0.33%</u>	2.00%	<u>0.01%</u>
4. TOTAL CAPITAL	<u>\$2,454,234</u>	<u>\$0</u>	<u>\$2,454,234</u>	<u>(\$855,643)</u>	<u>\$1,598,591</u>	<u>100.00%</u>		<u>6.74%</u>
<u>PER STAFF</u>								
1. LONG-TERM DEBT	\$1,118,106	\$0	\$1,118,106	(\$396,847)	\$721,259	45.56%	3.25%	1.48%
2. COMMON EQUITY	1,327,999	0	1,327,999	(471,344)	856,655	54.11%	9.71%	5.26%
3. CUSTOMER DEPOSITS	<u>8,129</u>	<u>0</u>	<u>8,129</u>	<u>(2,885)</u>	<u>5,244</u>	<u>0.33%</u>	2.00%	<u>0.01%</u>
4. TOTAL CAPITAL	<u>\$2,454,234</u>	<u>\$0</u>	<u>\$2,454,234</u>	<u>(\$871,076)</u>	<u>\$1,583,158</u>	<u>100.00%</u>		<u>6.74%</u>
RANGE OF REASONABLENESS							LOW	HIGH
RETURN ON EQUITY							8.71%	10.71%
OVERALL RATE OF RETURN							6.20%	7.28%

ROYAL WATERWORKS, INC.			SCHEDULE NO. 3-A		
TEST YEAR ENDED MAY 31, 2023			DOCKET NO. 20230081-WS		
SCHEDULE OF WATER OPERATING INCOME					
	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year	Revenue Increase	Revenue Requirement
1. Operating Revenues	\$770,305	(\$59)	\$770,246	\$29,099 3.78%	\$799,345
2. Operating Expenses					
Operation & Maintenance	\$627,020	(\$37,144)	\$589,876	\$0	\$589,876
Net Depreciation Expense	71,194	560	71,754	0	71,754
Taxes Other Than Income	62,936	(556)	62,380	1,309	63,689
Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
3. Total Operating Expense	<u>\$761,150</u>	<u>(\$37,140)</u>	<u>\$724,010</u>	<u>\$1,309</u>	<u>\$725,319</u>
4. Operating Income	\$9,155		\$46,236		\$74,025
5. Rate Base	\$1,083,114				\$1,097,810
6. Rate of Return					6.74%

ROYAL WATERWORKS, INC.			SCHEDULE NO. 3-B		
TEST YEAR ENDED MAY 31, 2023			DOCKET NO. 20230081-WS		
SCHEDULE OF WASTEWATER OPERATING INCOME					
	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year	Revenue Increase	Revenue Requirement
1. Operating Revenues	\$751,928	\$0	\$751,928	\$29,778 3.96%	\$781,706
2. Operating Expenses					
Operation & Maintenance	\$657,480	(\$16,277)	\$641,203	\$0	\$641,203
Net Depreciation Expense	45,560	572	46,132	0	46,132
Taxes Other Than Income	65,493	(5,189)	60,304	1,340	61,644
Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
3. Total Operating Expense	<u>\$768,533</u>	<u>(\$20,894)</u>	<u>\$747,639</u>	<u>\$1,340</u>	<u>\$748,979</u>
4. Operating Income	(\$16,605)		\$4,289		\$32,727
5. Rate Base	\$515,481				\$485,348
6. Rate of Return					6.74%

ROYAL WATERWORKS, INC.	SCHEDULE NO. 3-C	
TEST YEAR ENDED MAY 31, 2023	DOCKET NO. 20230081-WS	
ADJUSTMENTS TO NET OPERATING INCOME	PAGE 1 OF 2	
	<u>Water</u>	<u>Wastewater</u>
OPERATING REVENUES		
To reflect an adjustment to service revenues.	\$328	\$0
To reflect an adjustment to miscellaneous revenues.	<u>(387)</u>	<u>0</u>
Total	<u>(\$59)</u>	<u>\$0</u>
OPERATION & MAINTENANCE EXPENSE		
Salaries and Wages - Officers (603/703)		
To reflect salaries based on allocated ERC's.	<u>(\$11,969)</u>	<u>(\$15,894)</u>
Contractual Services - Accounting (632/732)		
To remove duplicative charges per Audit Finding 1.	<u>(\$200)</u>	<u>(\$200)</u>
Contractual Services - Legal (633/733)		
To remove duplicative charges per Audit Finding 1.	<u>(\$200)</u>	<u>(\$200)</u>
Contractual Services - Other (636/736)		
To reclassify expense from water to wastewater.	<u>(\$26)</u>	<u>\$26</u>
Insurance Expense (657/757)		
a. To remove pro forma expense from test year.	\$0	(\$3,117)
b. To reflect appropriate insurance expense per Audit Finding 1.	358	358
c. To reclassify expense from wastewater to water.	336	(336)
d. To reclassify expense from test year to pro forma.	<u>0</u>	<u>3,117</u>
Subtotal	<u>\$694</u>	<u>\$22</u>
Rate Case Expense (666/766)		
To reflect appropriate rate case expense amortized over 4 years.	<u>\$526</u>	<u>(\$31)</u>
Miscellaneous Expense (675/775)		
To reflect cost of lime removal amortized over 2 years.	<u>(\$25,969)</u>	<u>\$0</u>
TOTAL OPERATION & MAINTENANCE EXPENSE	<u>(\$37,144)</u>	<u>(\$16,277)</u>

ROYAL WATERWORKS, INC.
TEST YEAR ENDED MAY 31, 2023
ADJUSTMENTS TO NET OPERATING INCOME

SCHEDULE NO. 3-C
DOCKET NO. 20230081-WS
PAGE 2 OF 2

	<u>Water</u>	<u>Wastewater</u>
DEPRECIATION EXPENSE		
a. To reflect appropriate test year depreciation expense.	\$91	\$1,371
b. To reflect appropriate pro forma depreciation expense.	<u>469</u>	<u>(799)</u>
Total	<u>\$560</u>	<u>\$572</u>
TAXES OTHER THAN INCOME		
a. To reflect property taxes associated with pro forma projects.	(\$553)	(\$5,189)
b. To reflect appropriate test year TOTL.	<u>(3)</u>	<u>0</u>
Total	<u>(\$556)</u>	<u>(\$5,189)</u>
TOTAL ADJUSTMENTS TO OPERATING EXPENSES	<u>(\$37,140)</u>	<u>(\$20,894)</u>

ROYAL WATERWORKS, INC.		SCHEDULE NO. 3-D					
TEST YEAR ENDED MAY 31, 2023		DOCKET NO. 20230081-WS					
SCHEDULE OF WATER O&M EXPENSE							
Acct.	Description	Test Year Per Utility	Pro Forma Per Utility	Total Per Utility	Staff Adj. To Test Year	Staff Adj. To Pro Forma	Total Per Staff
603	Salaries & Wages - Officers	\$30,000	\$0	\$30,000	(\$11,969)	\$0	\$18,031
615	Purchased Power	43,117	0	43,117	0	0	43,117
618	Chemicals	72,541	0	72,541	0	0	72,541
632	Contractual Services - Accounting	450	0	450	(200)	0	250
633	Contractual Services - Legal	350	0	350	(200)	0	150
636	Contractual Services - Other	374,916	21,773	396,689	(26)	0	396,663
657	Insurance	4,679	3,117	7,796	694	0	8,490
666	Rate Case Expense	0	861	861	0	526	1,387
670	Bad Debt Expense	0	0	0	0	0	0
675	Miscellaneous Expense	<u>75,218</u>	<u>0</u>	<u>75,218</u>	<u>0</u>	<u>(25,969)</u>	<u>49,249</u>
	Total Water O&M Expense	<u>\$601,271</u>	<u>\$25,751</u>	<u>\$627,022</u>	<u>(\$11,701)</u>	<u>(\$25,443)</u>	<u>\$589,878</u>
	Working Capital is 1/8 O&M Expense less RCE						\$73,561

ROYAL WATERWORKS, INC.				SCHEDULE NO. 3-E			
TEST YEAR ENDED MAY 31, 2023				DOCKET NO. 20230081-WS			
SCHEDULE OF WASTEWATER O&M EXPENSE							
Acct.	Description	Test Year Per Utility	Pro Forma Per Utility	Total Per Utility	Staff Adj. To Test Year	Staff Adj. To Pro Forma	Total Per Staff
703	Salaries & Wages - Officers	\$28,000	\$0	\$28,000	(\$15,894)	\$0	\$12,106
710	Purchased Sewage Treatment	326,403	67,260	393,663	0	0	393,663
715	Purchased Power	9,831	0	9,831	0	0	9,831
732	Contractual Services - Accounting	450	0	450	(200)	0	250
733	Contractual Services - Legal	350	0	350	(200)	0	150
736	Contractual Services - Other	201,944	11,756	213,700	26	0	213,726
757	Insurance	7,796	0	7,796	(3,095)	3,117	7,818
766	Rate Case Expense	0	820	820	0	(31)	789
770	Bad Debt Expense	0	0	0	0	0	0
775	Miscellaneous Expense	<u>2,870</u>	<u>0</u>	<u>2,870</u>	<u>0</u>	<u>0</u>	<u>2,870</u>
	Total Wastewater O&M Expense	<u>\$577,644</u>	<u>\$79,836</u>	<u>\$657,480</u>	<u>(\$19,363)</u>	<u>\$3,086</u>	<u>\$641,203</u>
	Working Capital is 1/8 O&M Expense less RCE						\$80,052

ROYAL WATERWORKS, INC.		SCHEDULE NO. 4-A		
TEST YEAR ENDED MAY 31, 2023		DOCKET NO. 20230081-WS		
MONTHLY WATER RATES				
	UTILITY'S EXISTING RATES	UTILITY'S PROPOSED RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential Service and General Service</u>				
Base Facility Charge by Meter Size				
5/8" x 3/4"	\$13.29	\$25.31	\$16.83	\$0.02
3/4"	N/A	\$37.97	\$25.25	\$0.03
1"	\$90.54	\$63.28	\$42.08	\$0.05
1-1/2"	\$180.95	\$126.55	\$84.15	\$0.10
2"	\$290.04	\$202.48	\$134.64	\$0.15
3"	\$579.10	\$404.96	\$269.28	\$0.31
4"	N/A	\$632.75	\$420.75	\$0.48
6"	N/A	\$1,265.50	\$841.50	\$0.96
8"	N/A	\$2,024.80	\$1,346.40	\$1.54
10"	N/A	\$2,910.65	\$1,935.45	\$2.21
Charge per 1,000 gallons - Residential Service and General Service	\$3.42	\$3.54	N/A	N/A
Charge per 1,000 gallons - Residential Service				
0-4,000 gallons	N/A	N/A	\$4.38	\$0.01
Over 4,000 gallons	N/A	N/A	\$4.57	\$0.01
Charge per 1,000 gallons - General Service	N/A	N/A	\$4.48	\$0.01
<u>Private Fire Protection</u>				
2"	N/A	\$16.87	\$11.22	\$0.01
3"	N/A	\$33.75	\$22.44	\$0.03
4"	\$27.69	\$52.73	\$35.06	\$0.04
6"	\$55.37	\$105.46	\$70.13	\$0.08
8"	N/A	\$168.73	\$112.20	\$0.13
10"	N/A	\$242.55	\$161.29	\$0.18
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>				
2,000 Gallons	\$20.13	\$32.39	\$25.59	
5,000 Gallons	\$30.39	\$43.01	\$38.92	
10,000 Gallons	\$47.49	\$60.71	\$61.77	

ROYAL WATERWORKS, INC.		SCHEDULE NO. 4-B		
TEST YEAR ENDED MAY 31, 2023		DOCKET NO. 20230081-WS		
MONTHLY WASTEWATER RATES				
	UTILITY'S EXISTING RATES	UTILITY'S PROPOSED RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential</u>				
Base Facility Charge - All Meter Sizes	\$13.45	\$53.31	\$37.03	\$0.04
Charge Per 1,000 gallons				
10,000 gallon cap	\$5.21	\$2.32	N/A	N/A
Charge Per 1,000 gallons				
8,000 gallon cap	N/A	N/A	\$3.80	\$0.00
<u>General Service</u>				
5/8" x 3/4"	\$13.45	\$53.31	\$37.03	\$0.04
3/4"	N/A	\$79.96	\$55.55	\$0.06
1"	\$95.69	\$133.26	\$92.58	\$0.10
1-1/2"	\$191.56	\$266.53	\$185.15	\$0.20
2"	\$306.19	\$426.44	\$296.24	\$0.31
3"	\$612.48	\$852.88	\$592.48	\$0.63
4"	N/A	\$1,332.63	\$925.75	\$0.98
6"	N/A	\$2,665.26	\$1,851.50	\$1.96
8"	N/A	\$4,264.42	\$2,962.40	\$3.13
10"	N/A	\$6,130.10	\$4,258.45	\$4.50
Charge per 1,000 gallons - General Service	\$5.22	\$2.78	\$4.56	\$0.00
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>				
2,000 Gallons	\$23.87	\$57.95	\$44.63	
6,000 Gallons	\$44.71	\$67.23	\$59.83	
8,000 Gallons	\$55.13	\$71.87	\$67.43	

Item 4

State of Florida



Public Service Commission

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

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

DATE: January 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) *EJD*
Office of the General Counsel (Stiller) *JSC*

RE: Docket No. 20230136-PU – Petition for approval of revisions to budget billing tariffs, by Florida Public Utilities Company.

AGENDA: 02/06/24 – Regular Agenda – Tariff Suspension – Participation is at the discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 02/13/24 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On December 15, 2023, Florida Public Utilities Company (FPUC or Company) filed a petition seeking Commission approval of revisions to its optional Budget Billing Program tariffs for both its electric and natural gas divisions. FPUC has proposed to expand its optional Budget Billing Program (Program) to include certain small general service customers, to remove unnecessary language related to bill format, and to revise the terms and conditions of the Program. Furthermore, FPUC has proposed to add details to the electric budget billing tariffs to align with its natural gas Program tariffs. Overall, the Company states that the proposed tariff revisions are intended to provide consistency across the business units under FPUC’s parent company, Chesapeake Utilities Corporation.

By way of background, Chesapeake Utilities Corporation will be replacing FPUC’s current Customer Information and Billing System (CIS) provided by ECIS, a Vertex business solutions

product which the Company has been using for over 20 years, at the completion of the current contract on December 31, 2024. Chesapeake Utilities Corporation is currently working with SAP (a software company for the management of business processes) and IBM to transition to FPUC's new billing system known as 1CX with an estimated transition date of August 2024.¹ The Company explained that as it is working through the process of changing to a new billing system, the need for consistency for the Program for both electric and natural gas divisions was heightened. As a result, FPUC filed the instant petition.

This is staff's recommendation to suspend the proposed tariffs. During the review process, staff issued a data request to FPUC on January 17, 2024, for which the responses are due on January 31, 2024. The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

¹ Commission approval for the new billing system is not an issue in this docket.

Discussion of Issues

Issue 1: Should FPUC's proposed revisions to its optional Budget Billing Program and associated tariff sheets for its electric (Sheet Nos. 39, 40, 41, 42, 43, 44, 44.1, 45, 46, 46.1, and 46.2) and natural gas (Sheet Nos. 6.253 and 6.254) divisions be suspended?

Recommendation: Yes. Staff recommends that FPUC's proposed revisions to the Program and associated tariff sheets for its electric (Sheet Nos. 39, 40, 41, 42, 43, 44, 44.1, 45, 46, 46.1, and 46.2) and natural gas (Sheet Nos. 6.253 and 6.254) divisions be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the proposed tariff modifications. (Guffey)

Staff Analysis: Staff recommends that FPUC's proposed revisions to the Program and associated tariff sheets for its electric and natural gas divisions be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the proposed tariff modifications.

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

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the Commission's decision on FPUC's proposed revisions to the Program and associated revised tariffs. (Stiller)

Staff Analysis: This docket should remain open pending the Commission's decision on FPUC's proposed revisions to the Program and associated revised tariffs.

Item 5

State of Florida



Public Service Commission

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

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

DATE: January 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Kaymak, Barrett, Guffey) **EJD**
Office of the General Counsel (Dose) **JSC**

RE: Docket No. 20230125-GU – Joint petition for approval of amendment to territorial agreement in Pasco County, by Florida Public Utilities Company and Peoples Gas System, Inc.

AGENDA: 02/06/24 – 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

On November 3, 2023, Florida Public Utilities Company (FPUC) and Peoples Gas System, Inc. (Peoples), collectively the joint petitioners, filed a petition seeking Commission approval of a first amendment (Amendment No. 1) to the Amended and Restated Territorial Agreement – Pasco County (Pasco Agreement). In November 2007, the Commission approved the Pasco Agreement, along with a Master Territorial Agreement (Master Agreement) and a gas transportation agreement between the Florida Division of Chesapeake Utilities Corporation¹ and

¹ By Order No. PSC-2023-0103-FOF-GU, issued March 15, 2023, in Docket No. 20220067-GU, the Florida Division of Chesapeake Utilities Corporation, as well as FPUC's Indiantown Division and Fort Meade Division, were consolidated with Florida Public Utilities Corporation, under the name of Florida Public Utilities Company. FPUC has assumed the rights and responsibilities under all pertinent agreements entered into by its predecessor, the Florida Division of Chesapeake Utilities Corporation, also known as CFG.

Docket No. 20230125-GU

Date: January 25, 2024

Peoples.² This Master Agreement contains terms and conditions that govern all territorial agreements entered into by Peoples and Chesapeake.³ The joint petitioners, through Amendment No. 1, seek the Commission's approval to adjust the utilities' shared service boundary.

Staff issued a data request to the joint petitioners on November 17, 2023, for which responses were received on December 13, 2023.

On January 10, 2024, the parties filed a corrected version of Amendment No. 1. The corrected version, initialed by counsel, contains the date that the amendment was entered into by the parties (October 31, 2023), which was inadvertently omitted in the original version submitted with the petition.⁴ No other changes were made to the corrected version of Amendment No. 1. Amendment No. 1 is shown as Attachment A to this recommendation.

The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

² Order No. PSC-2007-0944-PAA-GU, issued November 28, 2007, in Docket No. 20070399-GU, *In re: Joint Petition for approval of territorial agreement in Pasco County, master territorial agreement, and gas transportation agreement, by Peoples Gas System and the Florida Division of Chesapeake Utilities Corporation.*

³ *Id.*

⁴ See Document No. 00141-2024.

Discussion of Issues

Issue 1: Should the Commission approve the proposed Amendment No. 1 to the Pasco Agreement between FPUC and Peoples in Pasco County?

Recommendation: Yes, the Commission should approve the proposed Amendment No. 1, which transfers a portion of FPUC's service territory to Peoples. The proposed Amendment No. 1 would facilitate the provision of economical and reliable natural gas service by Peoples to prospective residential and business customers in the proposed transfer area identified as Service Area B in Amendment No. 1 – Exhibit A, thereby avoiding duplication of facilities and services. (Kaymak, Barrett, Guffey)

Staff Analysis: Pursuant to Section 366.04(3)(a), F.S., and Rule 25-7.0471, Florida Administrative Code (F.A.C.), the Commission has the jurisdiction to approve territorial agreements between natural gas utilities. Unless the Commission determines that the proposed Amendment No. 1 will cause a detriment to the public interest, the proposed amendment should be approved.⁵

Proposed Amendment to Territorial Agreement

FPUC and Peoples began territorial agreement discussions after a developer announced plans for a commercial complex in Service Area B. The previously undeveloped parcel of land in FPUC's service territory is located geographically a considerable distance from the company's existing natural gas facilities, but very close to existing facilities operated by Peoples. The proposed Amendment No. 1 will facilitate serving the new commercial development within the geographic area described in Amendment No. 1 – Exhibit A as Service Area B (Attachment A). Service Area B is about 12,212 acres in size, and the new commercial development is projected to include a grocery store and other retail outparcels totaling about 60,000 square feet. The joint petitioners assert that in the next 5 to 10 years, further development within the Service Area B could result in up to 1,000 new residential and commercial customers.⁶

FPUC determined that its nearest facilities to Service Area B are approximately 24 miles away in Plant City.⁷ The utility asserted that construction of new facilities from its existing facilities in Plant City to Service Area B would cost several million dollars. Although a specific estimate was not developed, FPUC determined it was unable to extend service to the development economically, and thus pursued the territorial modifications set forth in this petition.

Peoples, on the other hand, has natural gas facilities about 320 feet away from Service Area B on County Road 577 (Curley Road). To provide natural gas services to Service Area B, Peoples would need to construct 170 linear feet of main lines, 150 linear feet of service lines, and a distinct regulator station, which Peoples estimate would cost \$105,000.⁸ Based on the

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

⁶ Document No. 06579-2023, Staff's First Data Request, No. 5.

⁷ Document No. 06579-2023, Staff's First Data Request, No. 1.

⁸ *Id.*

comparative difference in the amount of required infrastructure, Peoples can more economically serve the commercial development than FPUC and is willing to do so.

Pursuant to Paragraphs 3.D. and 3.E. of the Master Agreement, the joint petitioners have entered into Amendment No. 1 which, if approved, would transfer Service Area B from FPUC to Peoples.⁹ Pursuant to Paragraph 5 of Amendment No. 1, the terms and conditions of the Pasco Agreement would remain unchanged going forward. Prior to the second anniversary of the Commission's approval of Amendment No. 1, and no more frequently than every five years thereafter, Peoples and FPUC will confer regarding the status of the amendment.

The joint petitioners state that the approval and implementation of Amendment No. 1 will not cause a decrease in the availability or reliability of natural gas service provided by either entity, or to the existing or future ratepayers of either entity, consistent with the standards set forth in Section 366.04, F.S., and Rule 25-7.0471(2)(c), F.A.C..¹⁰ As stated in paragraph 6 of the petition, approval of Amendment No. 1 will enable as many residential and business customers in Pasco County as possible to receive economical and reliable natural gas service and will not necessitate the transfer of any existing customers or facilities between the joint petitioners. Moreover, as stated in paragraph 6, absent the subject amendment, certain customers in Pasco County would be unable to obtain natural gas service; thus, the approval of Amendment No. 1 would be in the public interest.

Rule Considerations

Rule 25-7.0471(2), F.A.C., addresses the standards the Commission should consider for approving territorial agreements for natural gas utilities. The Rule states:

- (2) Standards for Approval. In approving territorial agreements, the Commission shall consider:
 - (a) The reasonableness of the purchase price of any facilities being transferred;
 - (b) The reasonable likelihood that the agreement, in and of itself, will not cause a decrease in the reliability of natural gas service to the existing or future ratepayers of any utility party to the agreement, and
 - (c) The reasonable likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities.
 - (d) Other relevant factors that may arise from the circumstances of a particular case.

In its review, staff considered each component of Rule 25-7.0471(2), F.A.C. Regarding paragraph (2)(a), staff notes that FPUC agreed to transfer the pertinent area to Peoples without compensation, which staff believes is reasonable because no facilities are being transferred.¹¹ Regarding paragraph (2)(b), the joint petitioners' have confirmed that the availability and reliability of service to existing or future customers will not be decreased for either petitioner.

⁹ See Footnote 2, citing the Master Agreement approved by Order No. PSC-2007-0944-PAA-GU.

¹⁰ Document No. 06579-2023, Staff's First Data Request, No. 4.

¹¹ Document No. 06579-2023, Staff's First Data Request, No. 3.

The joint petitioners verified that there are no natural gas facilities in Service Area B, and that construction would be necessary to service that geographic area.¹² Paragraph (2)(c) has been appropriately considered because, under the proposed territorial agreement, staff believes uneconomic duplication of facilities would not occur because Peoples facilities are better positioned to serve the area economically and efficiently.¹³ Staff believe paragraph(2)(d) gives the Commission the flexibility to address any other relevant concerns that are case-specific. The joint petitioners assert that there are none.¹⁴

Under Rule 25-7.0471(1)(e), F.A.C., a proposed territorial agreement must provide information regarding the degree of acceptance by affected customers. Staff notes, however, that in the instant case, there are no current customers and under this proposed territorial agreement, no facility transfers are contemplated. In addition, representatives from FPUC and Peoples have notified staff that the developer is aware of, and has no objection to, the proposed territorial agreement.

Conclusion

Staff recommends that the Commission approve the proposed Amendment No. 1, which transfers a portion of FPUC's service territory to Peoples. The proposed Amendment No. 1 would facilitate the provision of economical and reliable natural gas service by Peoples to residential and business customers in the proposed transfer area identified as Service Area B in Amendment No. 1 – Exhibit A, thereby avoiding duplication of facilities and services.

¹² Document No. 06579-2023, Staff's First Data Request, No. 4.

¹³ *Id.*

¹⁴ *Id.*

Issue 2: Should this docket be closed?

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

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

AMENDMENT NO. 1 TO TERRITORIAL AGREEMENT - PASCO COUNTY

AMENDMENT NO. 1
TO
AMENDED AND RESTATED TERRITORIAL AGREEMENT - PASCO COUNTY

THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED TERRITORIAL AGREEMENT-PASCO COUNTY (this "Amendment No. 1") is made and entered into this 31st day of October, 2023, by and between Florida Public Utilities Company, a corporation of the State of Florida, hereinafter referred to as ("FPUC,"), and Peoples Gas System, Inc. ("PGS"), a corporation of the State of Florida, each being an investor-owned natural gas local distribution utility as defined in Section 366.02(1), Florida Statutes. FPUC and PGS are hereinafter sometimes referred to singularly as a "party" and collectively as the "parties." - PREK
- MWM

WITNESSETH:

WHEREAS, FPUC and PGS are natural gas utilities subject to the regulatory jurisdiction of the Florida Public Service Commission ("Commission") under Chapter 366, *Florida Statutes*; and

WHEREAS, as pertinent to this Amendment No. 1, PGS and the Florida Division of Chesapeake Utilities Corporation ("CFG"), FPUC's predecessor in interest, entered into the Amended and Restated Territorial Agreement-Pasco County in July 2007 ("Original Agreement"); and

WHEREAS, CFG and PGS submitted the Original Agreement to the Florida Public Service Commission for approval on July 6, 2007, consistent with Section 4(a) of the Master Territorial Agreement between the parties; and

WHEREAS, the Florida Public Service Commission approved the Original Agreement by Order No. PSC-07-0944-PAA-GU, issued November 28, 2007, in Docket No. 20070399-GU, and associated Consummating Order No. PSC-2007-1028-CO-GU; and

WHEREAS, the parties have conducted themselves in accordance with the Original Agreement since its approval by the Commission; and

WHEREAS, by Order No. PSC-2023-0103-POF-GU, issued March 15, 2023, in Docket No. 20220067-GU, CFG, along with the other natural gas utility holdings of Chesapeake Utilities Corporation in Florida, were consolidated into one regulated natural gas utility business unit under the name of Florida Public Utilities Company; and

WHEREAS, FPUC, as the legal successor and assign of CFG, has assumed and is bound by the terms of the Original Agreement, consistent with the terms of the Master Agreement between the parties; and

WHEREAS, FPUC is unable to economically meet a request for service from a new customer located in an area assigned to it under the Original Agreement; and

AMENDMENT NO. 1 TO TERRITORIAL AGREEMENT - PASCO COUNTY

WHEREAS, PGS is willing and able to economically serve the customer in question; and

WHEREAS, FPUC and PGS desire that this Amendment No. 1 supersede and replace the portions of the Original Agreement as specified herein; and

WHEREAS, in order to enable as many persons and businesses as possible within Pasco County to receive economical and reliable natural gas service, PGS and FPUC have entered into this Amendment No. 1 to more rapidly and economically expand the availability of natural gas service to potential customers in Pasco County; and

WHEREAS, the Commission is empowered by the legislature of the State of Florida, pursuant to Section 366.04(3)(a), *Florida Statutes*, to approve and supervise territorial agreements between and among natural gas utilities;

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

1. For purposes of clarity, all references to Chesapeake in the Original Agreement shall be deemed to include and incorporate like reference to FPUC.
2. Paragraph 3 of the Original Agreement shall be deleted and replaced with the following paragraph:

As between the Parties, Chesapeake's service area in Pasco County, Florida (the "Chesapeake Service Area") shall be as set forth on Exhibit A, which is incorporated herein by reference and made a part hereof. The Chesapeake Service Area is also depicted on the territory map attached hereto and made a part hereof as Exhibit C as those areas shaded and designated respectively as "Chesapeake Service Area A", which area is more fully described in the legal description set forth in Exhibit A.

3. Exhibit A to the Original Agreement shall be revised to delete the section entitled "Legal description of Chesapeake Service Area 'B'".
4. Exhibit C to the Original Agreement shall be deleted and replaced with the map attached hereto as Amendment Exhibit A.
5. Except as modified by this Amendment No. 1, the Original Agreement shall remain unchanged and continue in full force and effect. This Amendment No. 1 shall have no effect on the boundaries of the respective service areas of the parties hereto as the same may now or hereafter exist except as specifically provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to the

AMENDMENT NO. 1 TO TERRITORIAL AGREEMENT -- PASCO COUNTY

Amended and Restated Territorial Agreement to be executed by their duly authorized officers as of the date and year first above stated.

PEOPLES GAS SYSTEM, INC.

By: _____

Attest:

Matthew Elliott
Print Name 10/31/2023

AMENDMENT NO. 1 TO TERRITORIAL AGREEMENT - PASCO COUNTY

FLORIDA PUBLIC UTILITIES COMPANY

By: _____

Attest:

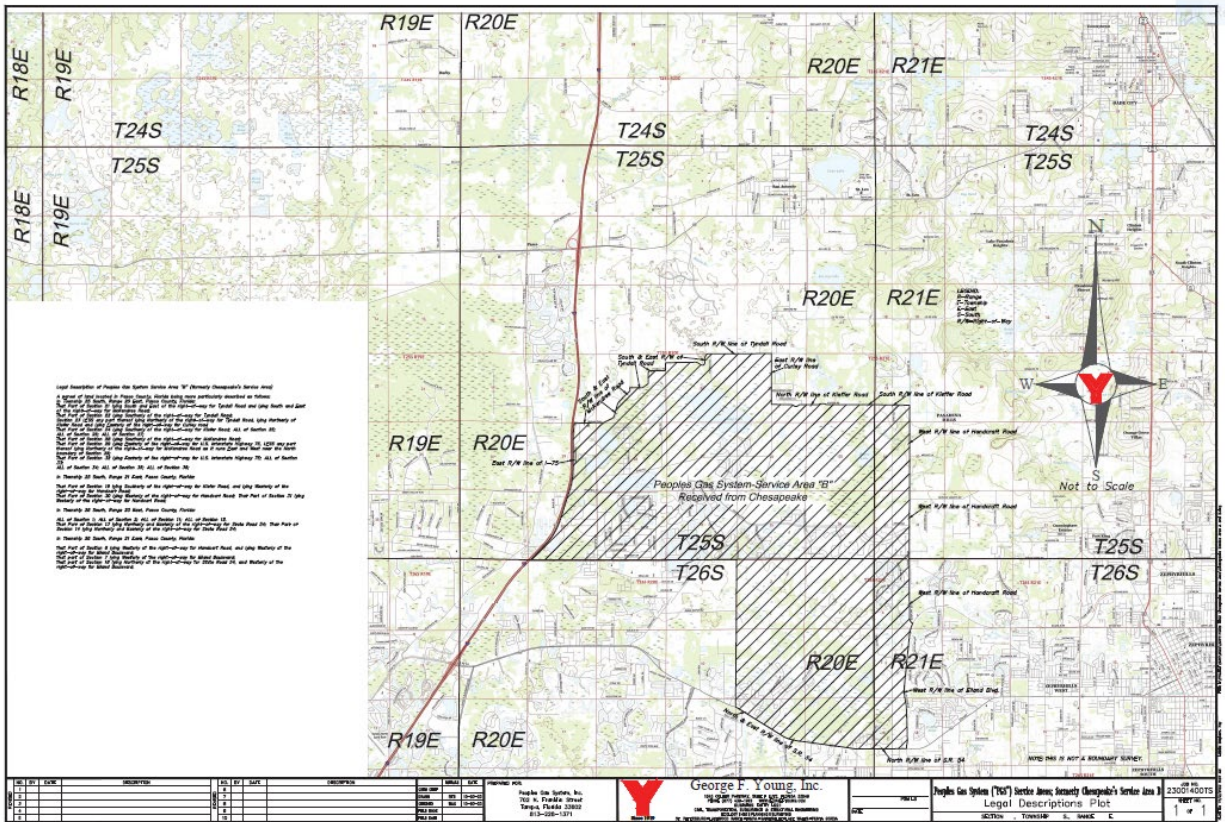


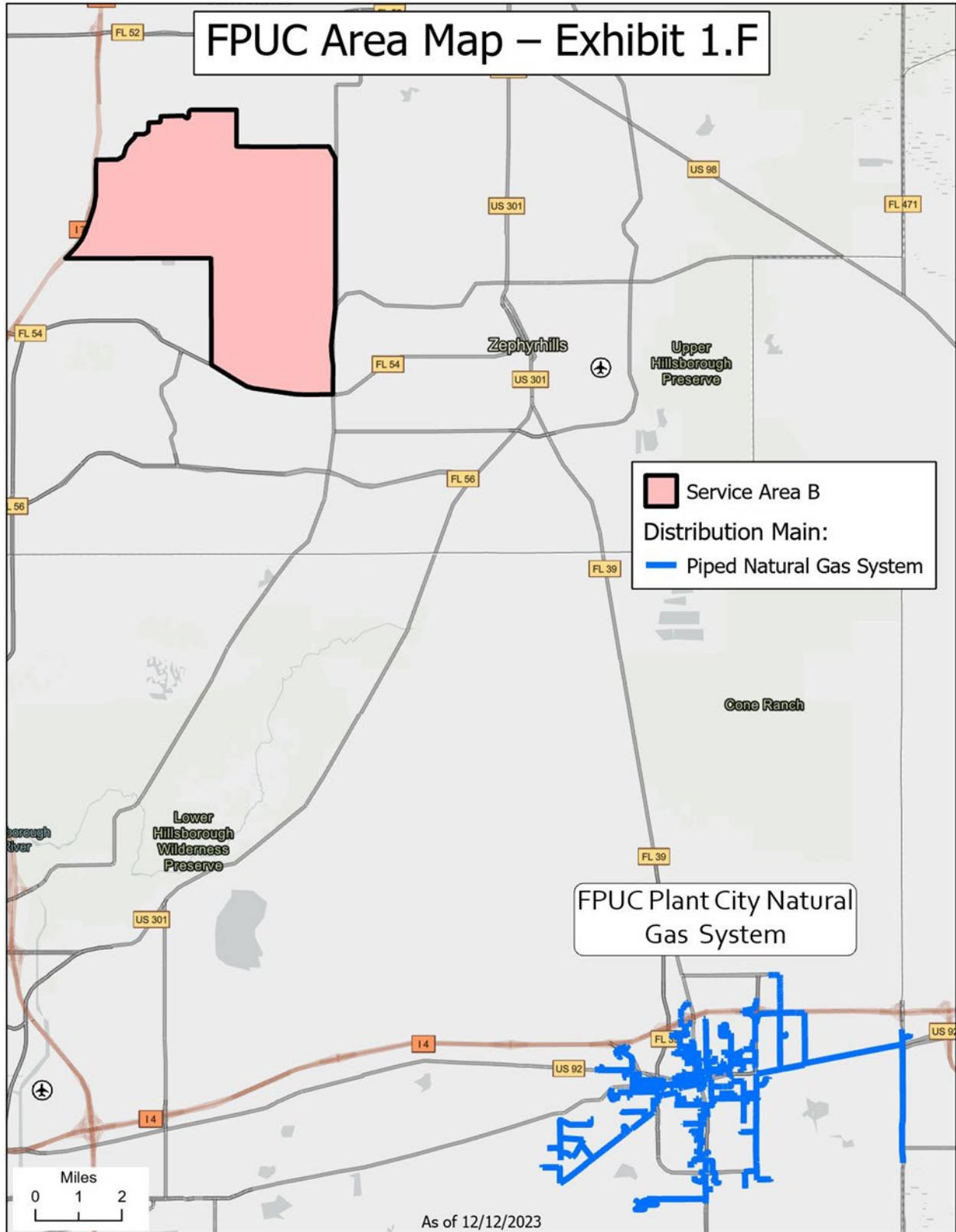
Christine Minton
Print Name

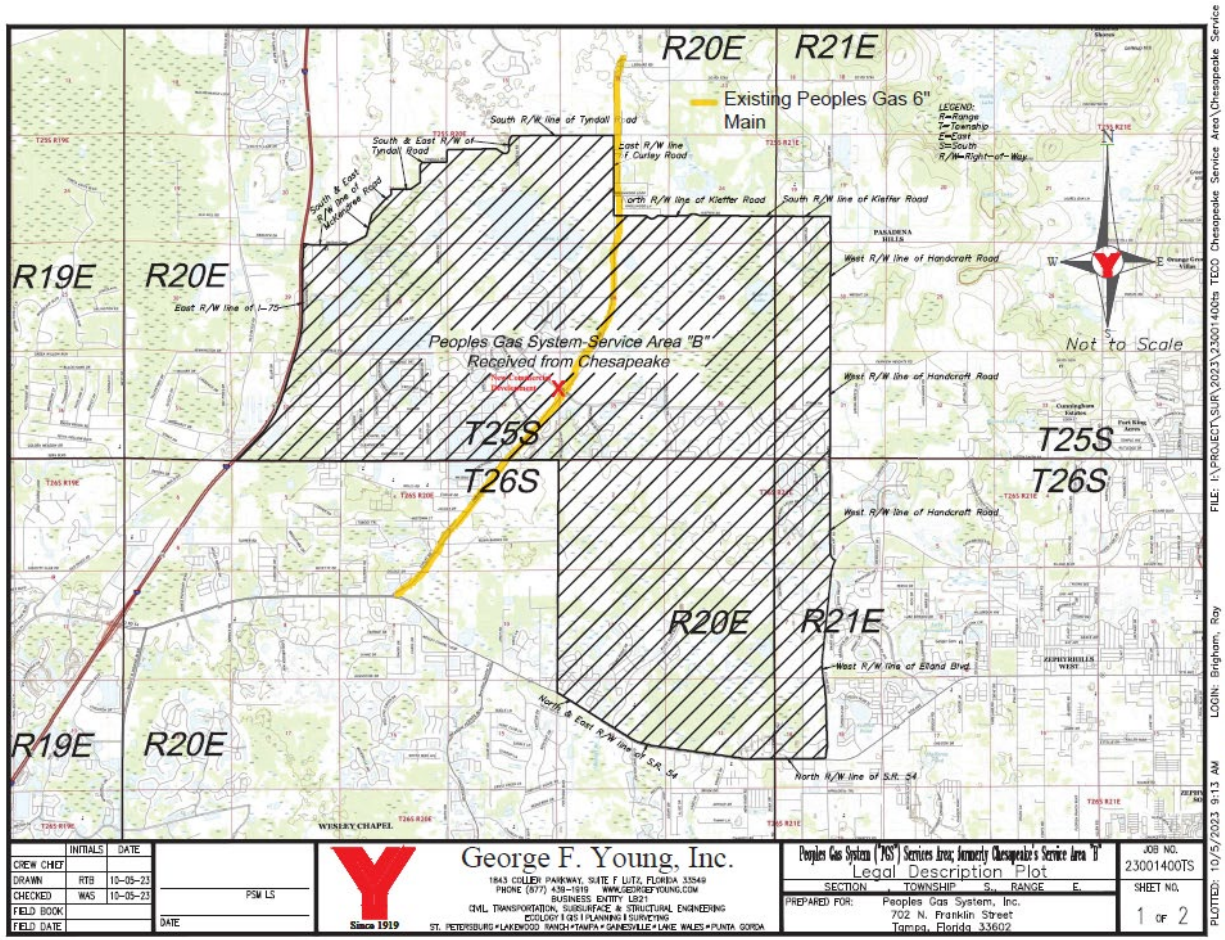
AMENDMENT NO. 1 TO TERRITORIAL AGREEMENT - PASCO COUNTY

AMENDMENT EXHIBIT A

Chesapeake (FPUC) and Peoples Gas System, Inc.
Pasco County, Florida Service Area Map







CREW CHIEF	INITIALS	DATE
DRAWN	RTB	12-05-23
CHECKED	WAS	12-05-23
FIELD BOOK		
FIELD DATE		

PSM LS
DATE

George F. Young, Inc.
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Peoples Gas System (T26S) Service Area, formerly Chesapeake's Service Area "B"		
Legal Description Plot		
SECTION	TOWNSHIP	RANGE
	S	E
PREPARED FOR: Peoples Gas System, Inc. 702 N. Franklin Street Tampa, Florida 33602		

JOB NO. 23001400TS
SHEET NO. 1 of 2

FILE: \\PROJECT\SI\A\23\001400ts_TECO Chesapeake Service Area\Chesapeake Service Area
 LOGIN: Bingham, Roy
 PLOTTED: 10/5/2023 9:13 AM

Legal Description of Peoples Gas System Service Area "B" (formerly Chesapeake's Service Area);

*A parcel of land located in Pasco County, Florida being more particularly described as follows:
 In Township 25 South, Range 20 East, Pasco County, Florida:
 That Part of Section 21 lying South and East of the right-of-way for Tyndall Road and lying South and East of the right-of-way for McKendree Road;
 That Part of Section 22 lying Southerly of the right-of-way for Tyndall Road;
 Section 23 LESS any part thereof lying Northerly of the right-of-way for Tyndall Road, lying Northerly of Kiefer Road and lying Easterly of the right-of-way for Curley road
 That Part of Section 24 lying Southerly of the right-of-way for Kiefer Road; ALL of Section 25;
 ALL of Section 26; ALL of Section 27;
 That Part of Section 28 lying Southerly of the right-of-way for McKendree Road;
 That Part of Section 29 lying Easterly of the right-of-way for U.S. Interstate Highway 75, LESS any part thereof lying Northerly of the right-of-way for McKendree Road as it runs East and West near the North boundary of Section 29;
 That Part of Section 32 lying Easterly of the right-of-way for U.S. Interstate Highway 75; ALL of Section 33;
 ALL of Section 34; ALL of Section 35; ALL of Section 36;*

In Township 25 South, Range 21 East, Pasco County, Florida:

*That Part of Section 19 lying Southerly of the right-of-way for Kiefer Road and lying Westerly of the right-of-way for Handcart Road;
 That Part of Section 30 lying Westerly of the right-of-way for Handcart Road; That Part of Section 31 lying Westerly of the right-of-way for Handcart Road;*

In Township 26 South, Range 20 East, Pasco County, Florida:

*ALL of Section 1; ALL of Section 2; ALL of Section 11; ALL of Section 12.
 That Part of Section 13 lying Northerly and Easterly of the right-of-way for State Road 54; That Part of Section 14 lying Northerly and Easterly of the right-of-way for State Road 54;*

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

*That Part of Section 6 lying Westerly of the right-of-way for Handcart Road, and lying Westerly of the right-of-way for Eiland Boulevard;
 That part of Section 7 lying Westerly of the right-of-way for Eiland Boulevard;
 That part of Section 18 lying Northerly of the right-of-way for State Road 54, and Westerly of the right-of-way for Eiland Boulevard;*

CREW CHIEF	INITIALS	DATE	 <p>1843 COLLIER PARKWAY, SUITE F LUTZ, FLORIDA 33549 PHONE (877) 439-1919 WWW.GEORGEYOUNG.COM BUSINESS ENTITY L921 CIVIL, TRANSPORTATION, SUBSURFACE & STRUCTURAL ENGINEERING ECOLOGY & GIS PLANNING & SURVEYING ST. PETERSBURG • LAKEWOOD • BRANCH • TAMPA • GAINESVILLE • LAKE WALKER • PUNTA GORDA</p>	Peoples Gas System (PGS) Service Area, formerly Chesapeake's Service Area "B"		JOB NO.
DRAWN				Legal Description Plot		23001400TS
CHECKED				SECTION	TOWNSHIP	S. RANGE E.
FIELD BOOK				PREPARED FOR:	Peoples Gas System, Inc. 702 N. Franklin Street Tampa, Florida 33602	
FIELD DATE						

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