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 August 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: July 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Gatlin, Norris, Vogel) *ALM*
Division of Economics (Draper) *EJD*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20230020-EI – Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred, by Duke Energy Florida, LLC.

Docket No. 20230116-EI – Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Idalia, by Duke Energy Florida, LLC.

AGENDA: 08/06/24 – Regular Agenda – Post-hearing Decision – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham (20230020-EI)
Passidomo (20230116-EI)

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: Vote required on Issues 16 and 17 only; all other issues were approved at the May 21, 2024 hearing.

Case Background

On January 23, 2023, Duke Energy Florida, LLC (DEF or Company) filed a petition for a limited proceeding seeking authority to recover \$442.1 million for the incremental storm restoration costs related to Hurricanes Elsa, Eta, Ian, Isaias, and Nicole and Tropical Storm Fred (Storms),

as well as replenish its storm reserve.¹ This amount includes approximately \$4.5 million in interest. DEF filed its petition pursuant to the provisions of the 2021 Settlement Agreement (2021 Settlement) approved by Order No. PSC-2021-0202A-AS-EI. By Order No. PSC-2023-0111-PCO-EI, issued March 23, 2023, in Docket No. 20230020-EI, the Commission granted DEF's request to recover these costs through an interim storm restoration recovery surcharge. The interim surcharges, made subject to true-up, was made effective with the first billing cycle of April 2023, ending the earlier of full recovery or with the last billing cycle of March 2024, whichever occurs first. The intervention of the Office of Public Counsel (OPC) was recognized by Order No. PSC-2023-0085-PCO-EI, issued February 15, 2023. Walmart, Inc. (Walmart) filed a petition to intervene on March 6, 2023, which was granted by Order No. PSC-2023-0377-PCO-EI, issued December 20, 2023. White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate –White Springs (PCS Phosphate) also requested permission to intervene in this proceeding, which was granted by Order No. PSC-2024-0098-PCO-EI, which was issued April 17, 2024.

On September 29, 2023, DEF filed its petition for approval of actual costs related to the Storms, in the amount of \$431.4 million, an approximate reduction of \$10.7 million. DEF also requested to continue the storm restoration charge through the end of March 2024, as initially approved in Order No. PSC-2023-0111-PCO-EI. DEF requested that the disposition of any over- or under-recovery be handled through the capacity cost recovery clause. Docket No. 20230020-EI was set for hearing on May 21-22, 2024.²

On October 16, 2023, the Company filed a petition for a limited proceeding in Docket No. 20230116-EI seeking authority to implement an interim storm restoration recovery surcharge to recover approximately \$166.1 million in incremental storm restoration costs, replenishment of the storm reserve, and interest related to Hurricane Idalia, to begin with the first billing cycle of January 2024 through December 31, 2024, subject to final true-up. The Company requested approval to include and spread the recovery of the remaining interim incremental storm restoration costs for the Storms in the surcharge for Hurricane Idalia, thereby amending the currently-approved surcharge. The \$166.1 million includes \$73.9 million related to the uncollected restoration costs from the Storms and \$91.9 million related to Hurricane Idalia. Order No. PSC-2023-0375-PCO-EI, issued on December 19, 2023, approved the consolidated storm restoration recovery surcharge subject to final true-up.

Docket Nos. 20230020-EI and 20230116-EI were consolidated by Order No. PSC-2024-0151-PHO-EI, issued May 14, 2024, placing the costs for the Storms and for Hurricane Idalia at issue in the final hearing held on May 21-22, 2024. At the final hearing, the testimonies of Shelly Ross, William T. Fountain, Carl Vinson, Tomer Kopelovich, Christopher Menendez and Lisa Perry were admitted into the record. Exhibits 1-21 were also admitted into the record.

All parties have either agreed with, or taken no position, on Issues 1-15 and 18-19 in this docket; those issues deal with the actual dollar amounts for costs recoverable under DEF's 2017 and

¹ Docket No. 20230020-EI, *In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred*, by Duke Energy Florida, LLC.

² Order No. PSC-2023-0333-PCO-EI, issued November 2, 2023, in Docket No. 20230020-EI, *In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Elsa, Eta, Isaias, Ian, Nicole, and Tropical Storm Fred*, by Duke Energy Florida, LLC.

2021 Settlement Agreements.³ These issues were approved by the Commission at the May 21 final hearing, resulting in prudent and reasonable retail Total Recoverable Storm Costs of \$431,380,637 plus estimated interest.⁴ These issues are included in staff's recommendation for purposes of completeness; because they have already been approved, no vote is necessary for Issues 1-15 and 18-19. The only two remaining issues are Issue 16: Should any cost recovery approved in this docket be recovered from demand-metered customers through the demand charge? and Issue 17: If applicable, how should any under-recovery or over-recovery be handled? Post-hearing briefs addressing these remaining issues were filed by DEF, PCS Phosphate, and Walmart on June 14, 2024.

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

³ Order No. PSC-2017-0451-AS-EI, issued November 20, 2017, in Docket No. 20170183-EI, *In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC*; Order No. PSC-2021-0202A, issued June 28, 2021, in Docket No. 20210016-EI, *In re: Petition for limited proceeding to approve 2021 settlement agreement, by Duke Energy Florida, LLC*.

⁴ EXH 21.

Discussion of Issues

Issue 1: Should the incremental cost and capitalization approach (ICAA) found in Rule 25-6.0143, F.A.C., be used to determine the reasonable and prudent amounts to be included in the restoration costs?

Approved Type 2 Stipulation: The ICCA approach in Rule 25-6.0143, F.A.C. and the terms of the 2019 Irma Settlement Agreement approved by Order No. PSC-2019-0232-AS-EI should be used to determine the reasonable and prudent amounts included in the restoration costs.

Issue 2: Have the terms of DEF's 2019 Settlement Agreement, approved by Order No. PSC-2019-0232-AS-EI, issued June 13, 2019, been complied with? If not, why not?

Approved Type 2 Stipulation: Yes.

Issue 3: What is the reasonable and prudent amount of regular payroll expense to be included in Total Storm Related Restoration Costs?

Approved Type 2 Stipulation: Below is the reasonable and prudent regular payroll expense for each storm.

**Table 3-1
Regular Payroll Expense**

Storm	Amount
Nicole	\$1,370,120
Ian	\$4,674,377
Fred	\$167,704
Elsa	\$492,800
Isaias	\$66,191
Eta	\$347,959

The reasonable and prudent amount of regular payroll expense to be included in Total Storm Related Restoration Costs is \$7,119,151.

Issue 4: What is the reasonable and prudent amount of overtime payroll expense to be included in Total Storm Related Restoration Costs?

Approved Type 2 Stipulation: Below is the reasonable and prudent overtime payroll expense for each storm.

**Table 4-1
Overtime Payroll Expense**

Storm	Amount
Nicole	\$3,377,663
Ian	\$9,965,271
Fred	\$258,537
Elsa	\$807,888
Isaias	\$366,526
Eta	\$962,313

The reasonable and prudent amount of overtime payroll expense to be included in Total Storm Related Restoration Costs is \$15,738,198.

Issue 5: What is the reasonable and prudent amount of contractor costs, including vegetation and line clearing, to be included in Total Storm Related Restoration Costs?

Approved Type 2 Stipulation: Below are the reasonable and prudent contractor costs for each storm.

**Table 5-1
Contractor Costs**

Storm	Amount
Nicole	\$29,149,136
Ian	\$267,394,755
Fred	\$108,304
Elsa	\$8,257,533
Isaias	\$279,861
Eta	\$13,084,650

The reasonable and prudent amount of contractor costs, including vegetation and line clearing, to be included in Total Storm Related Restoration Costs is \$318,274,239.

Issue 6: What is the reasonable and prudent amount of vehicle and fuel expense to be included in Total Storm Related Restoration Costs?

Approved Type 2 Stipulation: Below is the reasonable and prudent vehicle and fuel expense for each storm.

**Table 6-1
Vehicle and Fuel Expense**

Storm	Amount
Nicole	\$1,526,358
Ian	\$9,397,616
Fred	\$40,969
Elsa	\$426,169
Isaias	\$37,817
Eta	\$747,426

The reasonable and prudent amount of vehicle and fuel expense to be included in Total Storm Related Restoration Costs is \$12,176,355.

Issue 7: What is the reasonable and prudent amount of employee expenses to be included in Total Storm Related Restoration Costs?

Approved type 2 Stipulation: Below are the reasonable and prudent employee expenses for each storm.

**Table 7-1
Employee Expenses**

Storm	Amount
Nicole	\$3,453,759
Ian	\$16,510,677
Fred	\$24,606
Elsa	\$836,059
Isaias	\$16,232
Eta	\$800,782

The reasonable and prudent amount of employee expenses to be included in Total Storm Related Restoration Costs is \$21,642,115.

Issue 8: What is the reasonable and prudent amount of materials and supplies expense to be included in Total Storm Related Restoration Costs?

Approved Type 2 Stipulation: Below is the reasonable and prudent materials and supplies expense for each storm.

**Table 8-1
Materials and Supplies Expense**

Storm	Amount
Nicole	\$3,245,543
Ian	\$18,603,008
Fred	\$34,668
Elsa	\$1,002,905
Isaias	\$37,432
Eta	\$1,003,640

The reasonable and prudent amount of materials and supplies expense to be included in Total Storm Related Restoration Costs is \$23,927,196.

Issue 9: What is the reasonable and prudent amount of logistics costs to be included in Total Storm Related Restoration Costs?

Approved Type 2 Stipulation: Below are the reasonable and prudent logistics costs for each storm.

**Table 9-1
Logistics Costs**

Storm	Amount
Nicole	\$4,917,493
Ian	\$44,649,681
Fred	\$59,127
Elsa	\$3,403,957
Isaias	\$12,301
Eta	\$2,768,223

The reasonable and prudent amount of logistics costs to be included in Total Storm Related Restoration Costs is \$55,810,782.

Issue 10: What is the reasonable and prudent amount of other costs to be included in Total Storm Related Restoration Costs?

Approved Type 2 Stipulation: Below are the reasonable and prudent other costs for each storm. These amounts include labor burdens/incentives, overhead allocations, external audit, insurance deductible and Irma settlement implementation costs.

**Table 10-1
Other Costs**

Storm	Amount
Nicole	\$1,470,546
Ian	\$10,083,533
Fred	\$192,958
Elsa	\$914,981
Isaias	\$225,532
Eta	\$1,357,418

The reasonable and prudent amount of other costs to be included in Total Storm Related Restoration Costs is \$14,244,968.

Issue 11: What is the reasonable and prudent total amount of costs to be included in Total Storm Related Restoration Costs?

Approved Type 2 Stipulation: Below are the reasonable and prudent Total Storm Related Restoration Costs for each storm.

**Table 11-1
Total Storm Related Restoration Costs**

Storm	Amount
Nicole	\$48,510,617
Ian	\$381,278,918
Fred	\$886,874
Elsa	\$16,142,291
Isaias	\$1,041,892
Eta	\$21,072,410

The reasonable and prudent total amount of costs to be included in Total Storm Related Restoration Costs is \$468,933,002.

Issue 12: What is the reasonable and prudent amount of storm-related costs that should be capitalized?

Approved Type 2 Stipulation: Below are the reasonable and prudent storm-related costs that should be capitalized.

**Table 12-1
Capitalized Costs**

Storm	Amount
Nicole	\$3,992,784
Ian	\$13,714,654
Fred	\$31,017
Elsa	\$171,265
Isaias	\$0
Eta	\$395,117

The reasonable and prudent amount of storm-related costs that should be capitalized is \$18,304,837.

Issue 13: What is the reasonable and prudent amount of storm-related costs that should be ICCA non-incremental O&M adjustment?

Approved Type 2 Stipulation: Below are the reasonable and prudent storm-related costs that should be ICCA non-incremental O&M adjustment.

**Table 13-1
ICCA Non-Incremental O&M Adjustment**

Storm	Amount
Nicole	\$1,274,876
Ian	\$4,096,655
Fred	\$690,427
Elsa	\$688,770
Isaias	\$760,300
Eta	\$376,694

The reasonable and prudent amount of storm-related costs that should be ICCA non-incremental O&M adjustments is \$7,887,722.

Issue 14: What is the reasonable and prudent total amount of retail Recoverable Storm Costs?

Approved Type 2 Stipulation: Below are the reasonable and prudent Recoverable Storm Costs including any true-up to prior storm recovery and estimated interest on the unamortized reserve deficiency balance, subject to true-up as stated in Issue 16.

**Table 14-1
Retail Recoverable Storm Costs**

Storm	Amount
Nicole	\$42,928,330 retail
Ian	\$359,576,056 retail
Fred	\$155,094 retail
Elsa	\$14,608,576 retail
Isaias	\$258,952 retail
Eta	\$20,160,165 retail
Previous Partial Recovery of Storm Costs	\$10,976,144

The prudent and reasonable retail Total Recoverable Storm Costs plus estimated interest of \$4,669,608 is \$431,380,637.

Issue 15: What is the appropriate accounting treatment associated with any storm costs found to have been imprudently incurred?

Approved Type 2 Stipulation: Imprudently incurred storm costs should not be charged to the storm reserve or recovered through a storm restoration charge on customer bills. No storm restoration costs were imprudently incurred; therefore, no such adjustment is necessary.

Issue 16: Should any cost recovery in this docket be recovered from demand-metered customers through the demand charge?

Recommendation: No. Staff recommends that the recovery of storm restoration costs from demand-metered customers through an energy charge is more appropriate than through a demand charge because the costs recovered through a storm restoration surcharge are highly variable and are largely associated with non-recurring contractor costs. Therefore, staff recommends that no change be made to the collection of DEF's storm restoration surcharge and that it continue to be collected from demand-metered customers on an energy (\$/kWh) basis. (Draper, Brownless)

Position of the Parties

DEF: No. The cost recovery approved in this docket should be recovered on an energy basis from all customers, as approved by the Commission in Order Nos. PSC-2023-0111-PCO-EI and PSC-2023-0375-PCO-EI. Because Walmart has provided no new information to justify diverging from the previously approved treatment, the Commission should maintain the storm surcharge recovery as twice previously approved.

Walmart: Walmart recommends that any cost recovery approved in this Docket going forward should be recovered from demand-metered customers through the demand charge, i.e., on a \$/kW basis, and not through the energy charge, or on a \$/kWh basis, as proposed by the Company.

PCS Phosphate: No. PCS supports continuation of the cost recovery method that DEF proposed and the Commission approved in its two interim orders issued in March and December 2023 as appropriate and in the public interest.

Staff Analysis:

PARTIES' ARGUMENTS

DEF

DEF argues that the storm restoration costs should be recovered from all classes of customers via a non-fuel energy charge, i.e., \$/kWh basis. In support of this position, DEF makes four arguments. First, the collection of the surcharges on an energy basis was approved by two separate orders, Order No. PSC-2023-0111-PCO-EI, issued March 23, 2023, and Order No. PSC-2023-0375-PCO-EI, issued December 19, 2023. (DEF BR 3) Order No. PSC-2023-0111-PCO-EI approved a storm restoration surcharge recovery tariff for demand customers based on an energy charge.⁵ Order No. PSC-2023-0375-PCO-EI approved a consolidated storm restoration recovery surcharge for all customer classes to be included in the "non-fuel energy charge on customer bills."⁶ Order No. PSC-2023-0375-PCO-EI further stated that "(t)he

⁵ Order No. PSC-2023-0111-PCO-EI at 6-7.

⁶ Order No. PSC-2023-0375-PCO-EI at 4.

proposed interim storm restoration recovery factors shall remain in effect until a final true-up is approved by this Commission.”⁷

DEF states that Walmart filed its request for intervention on March 6, 2023, but did not appear at the March 7, 2023 Commission Conference to voice its opposition to billing of the first storm restoration surcharge via an energy charge. And although Walmart did e-mail comments to the parties and Commission staff on March 7th objecting to the energy billing for demand customers, it did not file for reconsideration of Order No. PSC-2023-0111-PCO-EI approving energy billing. Further, when DEF later petitioned for a consolidation of the first surcharge with a surcharge for Hurricane Idalia storm restoration recovery costs, Walmart did not appear at all at the December 5, 2023 Commission Conference at which the consolidated energy charge was approved and did not file for reconsideration of Order No. PSC-2023-0375-PCO-EI.

Second, DEF argues that if Walmart’s request to stop recovering storm restoration costs through an energy charge for demand side customers is granted, the time needed to develop, test and implement a new charge could not take place before DEF’s October billing cycle at the earliest. (DEF BR 4) That being the case, the charge would only be in effect for three months of the twenty-one month recovery period. Changing the billing process this late in the process, DEF witness Menendez testified, would lead to customer confusion and frustration. (TR 110-111)

Third, DEF states that changing the method of collection would be the wrong policy. (DEF BR 4) The types of costs recovered through a storm restoration surcharge are directly related to restoring electric service – energy - to all customers. (TR 141) Restoration of the electric grid benefits all customers equally regardless of how they are billed. (TR 144-145) DEF further argues that Walmart’s attempt to compare storm restoration costs to storm hardening costs is incorrect. (DEF BR 5)

Fourth, DEF argues that the Commission staff and Walmart have interpreted the term “interim” in the phrase “interim storm restoration recovery charge” incorrectly. DEF states that Walmart and Commission staff interpret “interim” to mean that the surcharges approved by Order Nos. PSC-2023-0111-PCO-EI and PSC-2023-0375-CFO-EI are not final but are subject to modification. DEF contends that “interim” simply means the limited period between implementation of the surcharge and determination of final storm restoration costs and calculation of refund or true-up charges.

Walmart

Walmart contends that the Commission should require DEF to recover storm restoration costs on a going forward basis from demand-metered customers through the demand charge and not the energy charge. (Walmart BR 4) Walmart argues that the recovery of storm restoration costs through an energy charge for demand customers is not cost-based because “it fails to properly reflect the demand-related nature of the underlying costs, thus creating intra-class subsidies within the demand-metered customer classes.” (Walmart BR 1) Walmart is not requesting recalculation and rebilling of storm restoration costs recovered before the May 21, 2024 final hearing. However, Walmart is requesting that the billing be changed from an energy charge (\$/kWh) to a demand charge (\$/kw) for costs which will be recovered during the rest of 2024.

⁷ Order No. PSC-2023-0375-PCO-EI at 3.

Further, Walmart is requesting that any over-recovery be refunded to Walmart through an energy charge (\$/kWh), the same method by which it was collected, and any under-recovery be collected using a demand charge (\$/kW) for demand-metered classes. (TR 129)

In support of this position, Walmart argues that the transmission and distribution costs associated with storm hardening recovered through the Storm Protection Plan Cost Recovery Clause (SPPCRC) are identical to the transmission and distribution costs, as well as the line clearing and vegetation removal costs, recovered through the storm restoration surcharge at issue here. (EXH 13) For DEF, Florida Power & Light Company (FPL) and Tampa Electric Company (TECO) the Commission has approved the use of a demand charge to recover identified Storm Protection Plan costs from demand-metered customers.⁸ In order to be consistent, Walmart argues, a demand charge should be used for demand-metered customers here. (TR 125, 128)

Walmart further argues that distribution costs associated with storm restoration are fixed in nature and do not vary with the amount of energy consumed by a particular customer. (Walmart BR 5) When these costs are recovered through an energy charge, Walmart contends that the result is a misallocation of cost responsibility leading to intra-class subsidies, i.e., higher load factor customers within the same rate class will overpay while lower load factor customers within the same class will underpay. (TR 124) Walmart states that even accepting the fact that a change to using a demand charge rather than an energy charge would take several months, that is not a reason to abandon the principle that customers should pay the costs associated with providing them service. (Walmart BR 5-6)

PCS Phosphate

For costs collected prior to the May 21, 2024 final hearing and costs to be collected from the May 21, 2024 hearing until the end of the year, PCS Phosphate agrees with DEF's collection using an energy charge (\$/kWh). (PCS Phosphate BR 3-4) PCS Phosphate gives several reasons for its position. First, use of an energy charge for the collection of storm restoration costs has been a long standing practice for DEF, TECO and FPL. (PCS Phosphate BR 2) Second, Walmart has not provided any analysis or quantification of the intraclass subsidies it alleges exist when an energy charge is used. (PCS Phosphate BR 4) Third, Walmart did not ask for reconsideration of either order approving the original storm restoration surcharge or the amended storm restoration surcharge. That being the case, a request to change the approved surcharge methodology is untimely. (PCS Phosphate BR 5) Fourth, due to the time needed to implement a change in the recovery method for the surcharge, it is unlikely that the change could be made much before the expiration of the interim cost recovery period, i.e., December 31, 2024. (*Id.*) That being the case, change to a demand charge for demand-metered customers for the remainder of this year is impractical. (PCS Phosphate BR 5-6)

⁸ Order No. PSC-2021-0202A-AS-EI, issued June 28, 2021, in Docket No. 20210016-EI, *In re: Petition for limited proceeding to approve 2021 settlement agreement, including general base rate increases, by Duke Energy Florida, LLC*; Order No. PSC-2022-0418-FOF-EI, issued December 12, 2022, in Docket No. 20220010-EI, *In re: Storm Protection Plan Cost Recovery Clause*.

ANALYSIS

The parties in this docket have agreed to stipulations for Issues 1-15 and 18-19 which were approved by the Commission at the May 21, 2024 final hearing. These issues concern the prudent and reasonable costs for the storm restoration cost activities identified in DEF's 2017 and 2021 Settlement Agreements,⁹ i.e., regular payroll expense, overtime payroll expense, contractor costs, vegetation and line clearing, vehicle and fuel expense, employee expenses, materials and supplies, logistics, and other storm related costs.¹⁰ What remains to be decided is how the cost of these storm restoration activities will be recovered from the different classes of customers. There are three separate types of costs at issue here: costs that have already been recovered as of the May 21, 2024 final hearing; costs that will be recovered between the May 21, 2024 final hearing and December 31 of this year; and costs that will be either the subject of a refund or true-up charge. This issue addresses the appropriate recovery from demand customers for previously recovered storm restoration costs and storm restoration costs to be recovered until the end of 2024. As stated at the final hearing, Walmart is not requesting adjustments to any storm restoration costs that already have been collected but is requesting to collect the remaining storm restoration costs from demand-metered customers through a demand charge. (TR 129)

Staff agrees with Walmart that this issue is properly before the Commission based on the Prehearing Officer's previous ruling.¹¹ Neither DEF nor PCS Phosphate have raised any new issues of fact or law but have simply reiterated the same arguments. Staff also agrees with Walmart that the fact that a change from an energy to demand charge can't take place until October of this year should not affect whether the change is made, if warranted. However, Walmart's arguments to change the recovery method for the previously approved storm recovery surcharges from an energy charge to a demand charge for demand-metered customers for costs to be recovered until the end of the year are not persuasive. Walmart did not provide any analysis or quantification of the amount of its alleged overpayment due to the use of an energy rather than demand charge. (TR 139-140) While witness Perry testified that Walmart is a high load factor customer (TR 138), Walmart also did not provide any evidence that a shift in demand-related costs from per kW demand to per kWh energy results in a shift in demand cost responsibility from lower load factor to higher load factor customers.(TR 140) Further, staff agrees with PCS Phosphate that all customers within a rate class are not similarly affected by any charge, but that does not necessarily mean that there are unacceptable intra-class subsidies in effect.

⁹ Order No. PSC-2017-0451-AS-EU, issued November 20, 2017, in Docket No. 20170183-EI, *In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC*; Order No. PSC-2021-0202A-AS-EI, issued June 28, 2021, in Docket No. 20210016-EI, *In re: Petition for limited proceeding to approve 2021 settlement agreement, by Duke Energy Florida, LLC*.

¹⁰ EXH 21.

¹¹ Order No. PSC-2024-0151-PHO-EI, issued May 14, 2024, in Docket No. 20230020-EI, *In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Idalia, by Duke Energy Florida, LLC*, p. 18 (In allowing Walmart's proposed Issue 16 to be included in this proceeding, the Prehearing Officer stated that "This is the point of entry for parties to raise all issues dealing with the replacement storm costs collected through the surcharge.")

Date: July 25, 2024

Walmart's argument that storm restoration costs are identical to those recovered through the Storm Protection Plan Cost Recovery Clause (SPPCRC)¹² and should be treated similarly also falls short. Storm hardening costs are intended to protect and strengthen transmission and distribution infrastructure from extreme weather conditions to reduce restoration costs. (DEF BR 5) At issue here are storm restoration costs.

Costs recovered through the storm recovery cost surcharge for Hurricane Ian are listed on Exhibit 3. (TR 105) The type of costs shown are payroll, employee expenses, contractor costs, and material and supplies. Witness Menendez testified that these types of costs are the same for all of the storms at issue here, but vary greatly in amount due to how long the storm remains in the utility's service area, the size and strength of the storm, the location of the storm, and the type of service territory affected. (TR 105-6) Staff agrees with DEF that restoration costs are heavily dependent on the amount of damage. (DEF BR 5) For instance, the total recovery restoration costs for Hurricane Ian are \$359,576,056 (EXH 6), while for Hurricane Elsa the total recoverable costs are \$14,609,576 (EXH 8).

The evidence shows that the storm restoration costs are not fixed and predictable as are the costs considered in the SPPCRC, but are highly variable. Contractor costs represent the time and equipment costs incurred by third party contractors hired for storm restoration activities. (EXH 3) Of the \$367,587,217 in requested costs associated with Hurricane Ian, the largest expense, \$317,562,371 or 86 percent of the total, is associated with contractor costs that are unique to each tropical storm or hurricane. (EXH 3)

Witness Perry testified that replacing a pole under the storm protection plan is the same asset as replacing a pole after a hurricane and represent fixed costs. (TR 146) As shown on Exhibit 3, material and supplies included in Hurricane Ian incremental storm restoration costs are \$19,036,828 or 5 percent of the total. While poles would be included in materials and supplies they represent a small percentage of the total incremental storm restoration costs. The majority of the expenses requested for Hurricane Ian, and the other storms for which costs are being requested, are associated with the labor needed to restore the energy grid, i.e., employee expenses, which include the cost of lodging and meals (\$16,457,252); regular payroll (\$4,312,733); labor burdens/incentives (\$5,075,949) and overtime payroll (\$9,874,448).

CONCLUSION

The evidence presented shows that the costs recovered through a storm restoration surcharge are highly variable and are largely associated with non-recurring contractor costs and payroll. That being the case, the use of an energy charge is more appropriate than a demand charge for demand-metered customers. Therefore, staff recommends that no change be made to the collection of DEF's storm restoration surcharge and that it continue to be collected from demand-metered customers on an energy (\$/kWh) basis.

¹² See Docket No. 20240010-EI, *In re: Storm protection plan cost recovery clause*.

Issue 17: If applicable, how should any under-recovery or over-recovery be handled?

Recommendation: In order to avoid mismatching the method used to collect storm restoration costs with that used to refund those costs, and consistent with our recommendation on Issue 16, staff recommends that DEF be required to use the fuel energy charge to either refund or collect true-up storm restoration costs. (Draper, Brownless)

Position of the Parties

DEF: DEF will compare the final storm recovery amount approved by the Commission to actual revenues from the storm restoration charge to determine any excess or shortfall. Interest will be applied to this amount at the 30-day commercial paper rate. Thereafter, DEF will collect or refund the excess or shortfall through the capacity cost recovery clause in the normal true-up process.

Walmart: DEF proposes to handle any under-recovery or over-recovery through the Capacity Charge. Walmart supports that methodology for collection of any under-recovery via demand charges for demand-metered customers, but opposes any refunds of amounts collected by energy charges via demand-charge rates for demand-metered customers.

PCS Phosphate: PCS supports the cost recovery methods that DEF proposed in this proceeding, but PCS does not oppose Walmart's suggestion that any demonstrated over-recovery be refunded in the same manner as those costs were collected (i.e., on an \$/kWh basis).

Staff Analysis:

PARTIES' ARGUMENTS

DEF

DEF has proposed to collect or refund any under- or over-recovery through the capacity cost recovery clause for two reasons. First, that is the way it has been done in the past. Second, it is administratively the most convenient method to handle the inevitable true-up. (DEF BR 7, TR 108-9) Finally, regardless of whether there is an over- or under-recovery, DEF would like to use one type of cost recovery. (*Id.*)

Walmart

Walmart is fine using the capacity cost recovery clause to recover any additional costs as it is a demand charge (\$/kW). However, Walmart wants any refund to be given back on the same basis as it was collected, i.e., using an energy charge (\$/kW). Walmart contends that using the capacity cost recovery clause for refunds will refund it less than it originally paid.

PCS Phosphate

PCS Phosphate argues that over- or under-recoveries should be recovered through additional months of surcharges or a sur-credit if one is to be fully consistent. (PCS Phosphate BR 6) PCS Phosphate also notes that in September 2023 when DEF filed its request to combine Hurricane Idalia storm restoration costs with those of the Storms, DEF had already recovered approximately \$10 million more than its total projected storm restoration costs. That being the

case, PCS Phosphate does not anticipate that there will be either a significant over- or under-recovery when the final true-up takes place next year. (*Id.*) PCS Phosphate does not oppose Walmart's request that any over-recovery be refunded on an energy basis while any under-recovery be collected on a demand basis. However, it points out that Walmart has agreed to a stipulation in FPL's storm restoration docket¹³ that states true-up rates will be recovered "through the non-fuel energy charge on customers' bills" regardless of whether the true-up results in an excess or shortfall.¹⁴ (PCS Phosphate BR 7) Like DEF, PCS Phosphate prefers that only one type of recovery be used for both under- or over-recoveries.

ANALYSIS

DEF would like to use one type of cost recovery clause to implement the final true-up of storm restoration costs next year whether it results in a refund or the collection of additional funds. DEF has proposed using the capacity cost recovery charge to implement the storm restoration cost true-up which is a demand charge. Walmart argues that a mismatch is created when you collect money on an energy basis, as was done here, but refund any over-collection on a demand basis. Consistent with its position in Issue 16, Walmart is fine collecting any additional funds using the capacity cost recovery charge, since it is a demand charge.

DEF witness Menendez agrees with Walmart that a mismatch is created when costs are collected on an energy basis and refunded on a demand basis. (TR 108) DEF has the ability to use either its environmental cost recovery (ECRC) or fuel clause, both of which use energy charges, to implement the storm restoration cost true-up. (TR 110) Witness Menendez stated that DEF wasn't sure whether the ECRC clause could be used for storm cost recovery and comply with the provisions of Section 366.8255, F.S. (TR 108)

Staff agrees with DEF and Walmart that a mismatch is created when funds are collected using an energy charge but refunded using a demand charge. Collection from demand customers using an energy charge results in a greater amount of money being collected than if those customers had been billed using a demand charge for the same amount of power. Since Walmart was billed using an energy charge, an energy charge should be used to make any refunds required.

The ECRC and fuel clause are both billed using an energy charge. Section 366.8255, F.S., authorizes the collection of costs for compliance with environmental laws or regulations. Section 366.8255(d), F.S., defines "environmental compliance costs" recoverable through the ECRC as including the following: inservice capital investments; operation and maintenance expenses; fuel procurement costs; purchased power costs; emission allowance costs; and direct taxes on environmental equipment. Storm restoration costs are not costs directly associated with "environmental compliance" although materials and supplies necessary to implement compliance with environmental requirements maybe damaged during a storm and need to be replaced.

¹³ See Docket No. 20230017-EI, *In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricanes Ian and Nicole*, by Florida Power & Light Company.

¹⁴ Docket No. 20230017-EI, *In re: Petition for limited proceeding for recovery of incremental storm restoration costs related to Hurricane Ian and Nicole*, by Florida Power & Light Company.

Staff agrees with DEF that only one cost recovery method should be used for both collection and refund of storm restoration costs. Given the language of Section 366.8255(d), F.S., staff concludes that it is more appropriate to use the fuel energy charge rather than the ECRC for both collection and any refund of storm restoration costs.

CONCLUSION

Given these facts, and consistent with our recommendation on Issue 16, staff recommends that DEF be required to use the fuel energy charge to either refund or collect true-up storm restoration costs.

Issue 18: What additional storm restoration process improvements, if any, should DEF follow in future storms?

Approved Type 2 Stipulation: DEF has fully implemented the Process Improvements approved in Order No. PSC-2019-0232-AS-EI. As part of DEF's process of continuous improvements, to the extent practicable without hindering safe and efficient storm restoration, DEF has agreed to work to implement the additional process refinements included in Attachment A.

Issue 19: Should this docket be closed?

Approved Type 2 Stipulation: No. This docket should remain open so that DEF can file supplemental schedules that compare the final storm recovery amount approved by the Commission to actual revenues from the storm restoration charge and calculate the resulting excess or shortfall for recovery.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for limited proceeding for)
recovery of incremental storm restoration costs)
related to Hurricanes Irma and Nate, by Duke) DOCKET NO. 20170272-EI
Energy Florida, LLC.)
_____)

CORRECTED STORM COST SETTLEMENT AGREEMENT

THIS AGREEMENT is by and between Duke Energy Florida, LLC (“DEF” or the “Company”), the Office of Public Counsel (“OPC” or “Citizens”), the Florida Industrial Power Users Group (“FIPUG”), the Florida Retail Federation (“FRF”), and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate (“White Springs”). Collectively, DEF, OPC, FIPUG, FRF, and White Springs shall be referred to herein as the “Parties” and the term “Party” shall be the singular form of the term “Parties.” OPC, FIPUG, FRF, and White Springs will be referred to herein as the “Consumer Parties.” This document shall be referred to as the “Storm Cost Settlement Agreement.”

Procedural Background

This Storm Cost Settlement Agreement resolves all issues in this Docket No. 20170272-EI and establishes for Florida Public Service Commission (“FPSC”) approval the amount of storm costs to be netted against the Company’s 2018 annual federal income tax savings as contemplated in the Amended Implementation Stipulation approved in this Docket by Order No. PSC-2018-0103-PCO-EI, issued February 26, 2018.

The FPSC approved the 2017 Second Revised and Restated Stipulation and Settlement Agreement (“2017 Agreement”) by Order No. PSC-2017-0451-AS-EU, issued on November 20, 2017, in Docket Nos. 20170183-EI, 20100437-EI, 20150171-EI, 20170001-EI, 20170002-EG, and

20170009-EI. The Parties entered into an Amended Implementation Stipulation memorializing their understanding and agreement regarding the manner in which DEF would implement specific provisions of the 2017 Agreement related to the timing of rate treatment of certain events contemplated in the 2017 Agreement that subsequently became manifest (i.e., storm restoration costs and federal income tax reform). The Amended Implementation Stipulation states, in part:

2. Paragraph 38(c) of the [2017] Agreement grants Duke Energy Florida, LLC (“DEF”) the right to recover, on an interim basis, storm damage costs sixty days after filing a petition with the Commission. Pursuant to this paragraph, on December 28, 2017, DEF filed for the recovery of \$513 million estimated for storm damage costs associated with Hurricanes Irma and Nate and replenishment of DEF’s retail storm damage reserve to the level specified in the Agreement. To reduce rate impacts to customers, DEF proposed to recover this amount over three years, resulting in approximately \$171 million of costs to be recovered from customers annually starting in March 2018. The Commission has opened Docket No. 20170272-EI to consider DEF’s request.

3. Paragraph 16 of the Agreement provides a mechanism for calculating and implementing the impact of tax reform on DEF’s rates, which will inure to the benefit of customers on the effective date of tax reform changes. On December 22, 2017, the President signed the Tax Cuts and Jobs Act (“Tax Act”) into law. Part of the Tax Act includes a reduction in the corporate tax rate from 35 percent to 21 percent. DEF, using the methodologies set forth in Paragraphs 16(b) and 16(c) of the [2017] Agreement, has preliminarily estimated the impact of the Tax Act to result in a reduction in revenue requirements of approximately \$135 million per year (after taking into account the \$50 million accelerated depreciation of Crystal River (“CR”) Units 4 and 5 as expressly provided in the Agreement). DEF and the other signatories to the [2017] Agreement agree that the \$135 million estimated annual Tax Act revenue requirement impact is based on preliminary data and is subject to final true-up. As specified in the [2017] Agreement, DEF is obligated to reduce customer base rates within 120 days of the December 22, 2017 enactment date, or by April 21, 2018, upon a thorough review of the effects of the Tax Act on base revenue requirements to account for the impacts of the Tax Act. Any final true-up associated with further refinement of the estimate and recognition of the pre-implementation will be reflected in the amount recognized consistent with paragraph 5 below.

4. The storm damage costs are allocated to customer rate classes in the same manner as base rates. Absent this [Amended] Implementation Stipulation, DEF would be authorized to increase rates by an average of \$171 million per year starting in March 2018, and would subsequently reduce base rates at a later date

in 2018 by an estimated \$135 million per year. The Signatory Parties seek to avoid this volatility in customer rates and agree that DEF should effectively utilize the annual Tax Act benefits to avoid implementing the charge to customers for storm damage costs that they would have otherwise been obligated to pay. To accomplish this goal, DEF shall, after Commission approval of the interim storm restoration recovery charge, withdraw the tariff sheets it filed with its December 28, 2017 filing. The parties request that the Commission consider this stipulation in conjunction with its approval of this interim charge. Because those tariff sheets also included the impact of the Asset Securitization Charge True-Up (Docket 2015071-EI), DEF shall simultaneously submit revised tariff sheets to reflect only the changes associated with the Asset Securitization Charge True-Up.

5. Based on the current storm restoration cost estimates, which are subject to change pending a final Commission order in Docket No. 20170272-EI and the yet-to-be filed docket regarding the Tax Act, DEF projects that the full estimated storm costs shall be recovered by approximately mid-2021. The signatories agree that DEF shall be entitled to record a monthly storm reserve accrual equal to one-twelfth of the annual Commission-approved revenue requirement impact of the Tax Act and credit the retail storm reserve from January 2018 through full recovery of the final Commission-approved actual storm recovery amount, and that a specific condition of the net bill impacts of this stipulation is that the Commission will issue an order explicitly authorizing such action. The signatories agree that once the final Commission-approved actual storm recovery amount has been recovered, DEF shall reduce base rates in the manner prescribed in the Agreement and commensurate with the Commission-approved Tax Act savings beginning in the month following the final month of storm recovery (including reserve replenishment). DEF agrees to file tariff sheets at least 60 days before this date to reflect the reduced rates.

By a stipulation filed on November 2, 2018 in Docket No 20180047-EI, DEF and OPC stipulated that the annual impact of the Tax Cuts and Jobs Act of 2017 (“Tax Act”) on the Company’s revenue requirement was \$150.9 million, subject to true-up based on DEF’s actual 2017 tax return. The Commission approved this stipulation by its Order No. PSC-2019-0053-FOF-EI, issued February 1, 2019. The Company filed updated exhibits on December 27, 2018, in Docket No. 20180047-EI reflecting the impact of annual Tax Act savings (based on the Company’s 2017 federal income tax return) on the Company’s revenue requirements of \$154.7 million, and the Parties acknowledge that \$154.7 million is the current estimated annual amount of Tax Act

savings to be applied toward storm cost recovery. The only remaining outstanding issue in Docket No. 20180047-EI that could even remotely impact the amount of Tax Act savings to be applied toward storm cost recovery is the classification of excess accumulated deferred income taxes related to cost of removal.

Current Docket Background

The current proceeding began on December 28, 2017, when DEF filed its Petition by Duke Energy Florida, LLC for Limited Proceeding for Recovery of Incremental Storm Restoration Costs Related to Hurricanes Irma and Nate (“Initial Petition”) seeking to recover storm costs and to replenish its storm reserve. The requested recovery of \$513.2 million represents net retail recoverable costs of approximately \$371 million, plus an additional \$132 million to replenish its storm reserve to the balance that existed in February 2012. In addition, the \$513.2 million includes \$10.2 million for interest, bond issuance costs, and a regulatory assessment fee true-up. To alleviate the rate impact to customers, DEF proposed recovery over three years, or approximately \$171 million per year. Then, on January 24, 2018, DEF filed a Motion to Approve an Implementation Stipulation, to avoid an immediate rate impact to customers and utilize the tax savings to offset the otherwise allowable storm cost recovery charge. In that filing, based on the then-current estimates, DEF estimated that it would realize tax savings of \$135 million a year that could be used to offset the storm costs; DEF estimated that the storm costs would be fully recovered by mid-2021.

On May 31, 2018, DEF filed a Petition for Approval of Actual Storm Restoration Costs (“Amended Petition”), along with accompanying testimony and exhibits, and requested recovery of actual recoverable storm costs in the amount of \$510 million (of which \$132 million was to replenish the storm reserve). DEF presented testimony explaining how its claimed recoverable

storm damage restoration costs (referred to herein as “storm costs”) were calculated in accordance with the Incremental Cost and Capitalization Approach (ICCA) methodology prescribed in Rule 25-6.0143, F.A.C. On January 28, 2019, the Company filed supplemental exhibits further reducing the amount of storm costs for which the Company was seeking recovery from a total of \$510 million to \$508 million to reflect adjustments received after the Company’s May 31, 2018, filing of actual costs. The Consumer Parties, led primarily by OPC, have conducted extensive discovery on and about the request for cost recovery in the Company’s Amended Petition.

During the course of discovery, OPC identified and shared with the Company items and categories of items that OPC asserted should not have been included in the Company’s request for cost recovery and/or for which prudence and recoverability were questionable. Examples include: (a) costs for which the underlying documentation was inadequate; (b) costs billed to the Company that should have been billed to another utility; (c) meals incurred during times or at places when it appeared vendor crews should have been working to restore service instead of dining; (d) costs associated with vendors that could be construed to be incurred through apparently excessive mobilization and travel time; and (e) costs that appeared to constitute duplicate billing for the same services provided.

Through these efforts, the Parties have gained considerable knowledge about utility storm restoration practices and have become well informed about their respective positions, the kinds of issues that presented themselves in the storm restoration process, and the risks associated with pursuing a fully litigated resolution in this docket. The Parties have also engaged in extensive and constructive discussions focused on (a) reaching agreement on a mutually agreeable and fair compromise regarding the amount of recoverable storm costs; and (b) equally, and perhaps more

importantly, developing an extensive set of improved procedures for use during future storms that will provide substantial value to the Company and its customers.

With this background, the Parties have entered into this Storm Cost Settlement Agreement in compromise of positions taken or that could have been taken in accord with their rights and interests under chapters 350, 366 and 120, Florida Statutes, as applicable, and as part of a negotiated exchange of consideration among the Parties, in which each Party has agreed to concessions to the others with the expectation, intent, and understanding that all provisions of this Storm Cost Settlement Agreement, upon approval by the Commission, will be enforced by the Commission as to all matters addressed herein with respect to all Parties. By entering into this Storm Cost Settlement Agreement, DEF does not admit any liability, wrongdoing, or imprudence with respect to its filing.

NOW, THEREFORE, in light of the mutual covenants of the Parties and the benefits accruing to all Parties through this Storm Cost Settlement Agreement, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. The foregoing “Procedural Background” and “Current Docket Background” sections of this Storm Cost Settlement Agreement are fully incorporated in and made a part of this Storm Cost Settlement Agreement. This Storm Cost Settlement Agreement will become effective when it is approved by the Commission, a final order has been issued, and the final order becomes unappealable (“Implementation Date”).

Storm Cost Recovery Amount

2. Specific adjustments:

A. DEF will capitalize contractor labor, pursuant to Rule 25-6.0143, F.A.C., in the amount of \$18 million, effective as of the Implementation Date, and DEF's storm damage costs previously charged to DEF's storm reserve will simultaneously be reduced by the same amount.

B. The Parties have disputed the amounts claimed by DEF as recoverable storm costs as being either incremental to base rates, and therefore recoverable through the storm cost recovery mechanism, or properly recoverable through base rates, and therefore not recoverable through the storm cost recovery mechanism. To resolve their dispute on this subject, the Parties have mutually agreed in compromise that amounts recoverable in base rates and not incremental to base rates are \$995,000. Without conceding that either side is correct, an aggregate negotiated adjustment in this amount (\$995,000) shall be made to reduce the amount recoverable through the storm cost recovery mechanism. This adjustment satisfies issues raised relating to employee payroll and embedded or native contractor labor that may be considered recoverable in base rates.

3. Aggregate adjustments:

The Parties have further agreed in compromise that aggregate adjustments totaling \$5.005 million to DEF's recoverable storm costs shall be made to recognize that certain errors in billing (including, for example, errors relating to hours and charges), invoicing, contractor oversight, or other restoration process matters may have occurred to varying degrees of materiality. Without conceding that such errors occurred in a material degree, DEF acknowledges that such errors may have led to customers paying for costs that they otherwise should not have paid for. The Parties agree that DEF will make a non-specific adjustment of \$5.005 million to reduce the amount

recoverable through the storm cost recovery mechanism (and any other rate, charge, or mechanism). No dollar amount is assigned to a specific allegation of error by this adjustment. The Parties agree that a copy of the deposition of DEF witnesses (including any subsequently filed errata) and exhibits dated March 14th and 15th, 2019 will be filed under appropriate requests for confidential protection or classification, or both, and incorporated by reference into this Storm Cost Settlement Agreement, so that it will be maintained by the Commission's official records as would any such order and incorporated settlement agreement.

4. Based on the annual tax act benefits amount established in Docket No. 20180047-EI, and pursuant to the 2017 Agreement and the Amended Implementation Stipulation, the time period for recovery of the storm costs subject to DEF's Amended Petition in this docket, as modified by DEF's updated exhibits filed on January 28, 2019, and by this Storm Cost Settlement Agreement, will be adjusted to reflect the resulting earlier recovery under the methodology contained in the Amended Implementation Stipulation.

Future Process Improvements

5. In recognition of the evidence gathered, examples listed herein, and the adjustments described in paragraph 3 above, the Parties have further agreed to a set of principles and mutually agreeable process changes intended to allow cost effective and timely storm damage recovery and service restoration that reasonably balances the customers' right to have service promptly restored with the customers' equal right not to pay excessive or improper costs to achieve that restoration.

6. The process changes generally described in the previous paragraph are more fully specified below. Beginning on the Implementation Date, the Company will make a good faith effort to implement as many of the new processes and procedures reflected below for the 2019 hurricane season as possible and will fully implement the processes and procedures for the 2020

hurricane season. The policies and procedures reflected below will remain in effect until amended by agreement of the Parties to this Storm Cost Settlement Agreement or superseded by action of the FPSC applicable to DEF. The Parties will meet to evaluate the procedures and consider the need to amend them during the first quarter of 2022 and every three years thereafter.

STORM RESTORATION COST PROCESS IMPROVEMENTS

[Where Items I.A-I contain policies (and expectations) that are to be communicated to vendors through inclusion in the engagement documentation (*i.e.* the documentation which is to be transmitted to a vendor immediately after it has agreed to perform storm restoration work for the Company), an asterisk (*) is placed in front of each applicable term. Additional specific guidance or reinforcement may be contained in individual policy statements.]

I. Contracting and Vendor Engagement, Travel and Work Policies

- A. Contracting Policy. The Company will (for damage assessment, line clearing and repair work) make a good-faith effort to contract and establish major terms and conditions with independent vendors who have non-embedded crews. Where applicable, the terms and conditions should reflect the procedures, policies and expectations outlined under I. A through I. An embedded crew provides storm restoration services and also performs similar or additional types of services for the Company in non-storm-restoration (non-emergency) conditions on a year-round basis. A non-embedded crew does not provide similar or additional types of services for the Company in non-storm-restoration (non-emergency) conditions on a year-round basis.
- B. *Billing Start Point Policy. The Company will establish a policy that vendor billing should begin at the point crews mobilize after acquisition. The term “mobilize” does not include the time or activity associated with crew members traveling to the point of travel departure, but may include reasonable and prudent time and activity associated with stocking supplies and making vehicles ready to travel. Any exceptions to this requirement will be documented.
- C. *Travel Time Billing Policy. The Company will establish a policy and use its best efforts to ensure that contracts with vendors include terms and conditions designed to limit compensation for travel time to the actual time traveled, with no minimum hours, and to require documentation of any exceptions to the policy and the reason therefor. For safety, timing, and logistics purposes, Company will request an electronic version of the proposed route that will be taken.

- D. **Pace of Travel Guidance Policy*. The Company will establish a policy for invoice review and storm filing documentation purposes that it expects distribution vendor crews that bill for 12 or more hours of travel in a day to travel 500 miles per day and it will require explanations sufficient to explain the degree of divergence from the expected travel distance.
- E. **GPS Tracking Capability Policy*. The Company will establish a policy that GPS tracking of vendor crews using ARCOS or a similar application will be required of vendors where reasonably practicable and GPS tracking will be utilized to the maximum extent possible. The mandatory nature of this requirement will be communicated in the engagement documentation. Any exceptions to this requirement will be documented.
- F. **Anti-Poaching Policy*. The Company declares that, on an informed basis, it does not, and will not, “poach” vendors or vendor crews who are committed to another utility or are part of another utility’s mutual aid allocation without the consent of the other utility. The Company will use its best efforts to communicate with Florida utilities regarding the engagement and the release of vendors. The standardized engagement documentation will communicate that the Company expects that vendors will communicate honestly with other utilities about any prior engagement to provide assistance to decrease the opportunity for “poaching.”
- G. **Daily Time Sheet Review and Documentation Policy*. The Company will require, review, verify, and approve the daily time sheets for all applicable vendor crews (*i.e.*, other than those of an investor-owned utility (“IOU”) allocated through a mutual assistance organization) and will maintain documentation of the Company’s approval and any exceptions noted by the Company. Electronic interfacing for time sheet review and approval will be utilized by vendors where reasonably practicable, and a spreadsheet template will be made available to all contractors to facilitate consistent application to the maximum extent possible.
- H. **16 Hour Work/8 Hour Rest Policy*. The Company will establish a policy (and use its best efforts to ensure that contracts with vendors include necessary terms and conditions) to limit work time to 16 hours on, with 8 hours of rest, with no minimum hours, including the avoidance of double-time billing through efficient management of prior day’s work time and/or current day’s end of rest time/start time. The Company will document any exceptions if it is unable to include such provisions in its contract (in accordance with I. A.), and the reasons therefor. The Company will also document exceptions to the policy, if any, in the implementation of the policy, and the reasons

therefor. The expectations in this policy will be communicated in the engagement documentation provided to all vendors.

- I. **Meal and Fuel Policy.* The Company will establish a policy for all vendors that all meals and fueling after vendor crews are on-boarded will occur at or be provided by the base camp; exceptions to this policy should be rare and all exceptions must be documented. Any authorized exception where meals are eaten off-site will not be reimbursed if they exceed a reasonable and customary amount. This Company policy will also include an expectation that no vendor crews will eat sit down meals outside the base camp or will purchase fuel off-site during working hours. The Company will establish a policy that vendor crews receiving meal stipends are expected to eat or receive all meals at or by the base camp once on-boarded. Time related to any unauthorized meals will not be paid. A sit-down meal is defined as a meal served in a restaurant where the crew park and leave their vehicles, enter the restaurant and sit down for a meal served by a server, and the meal is eaten inside the restaurant. The policies in I.I will be communicated to all vendors through the standard engagement documentation and, where possible, spelled out in the terms and conditions
- J. *Mutual Assistance Group Advocacy Commitments.* The Company will use reasonable best efforts to recommend to Southeastern Electric Exchange (“SEE”) and/or Edison Electric Institute (“EEI”) and advocate for/achieve changes to mutual aid IOU and vendor policies that are inconsistent with the receiving utility’s company policies. In discussions with SEE and/or EEI, the Company will encourage SEE to establish policies to eliminate billing for management double-time and mandatory meal stipends, and to establish standardized meal policies (reasonable *per diem*, if any). The Company will update the consumer parties annually in writing as to the status of this item.

II. **Cost Documentation, Auditing and Regulatory Recovery Process**

- A. *Storm Cost Documentation.* The Company will provide, for each named tropical storm, supporting documentation which includes binders (files) segregated by vendor with summaries and invoices, time sheets, etc., as follows:
 - Summary identifying vendor, any reference number associated with discreet vendor crews, billing and point of origin location, distance to travel, assumed travel days, dates secured, date started travel, date arrived, date released, time released, released to whom and, if vendor travels home, the date arrived at home.

- Contractor review showing the results of the Company's internal review that contains the detail listed on a Storm Audit Narrative, including all exceptions documented pursuant to I.A. through I.
- Summary of expenses in a format that shows total billing (all invoices are listed separately).
- Filings will be very similar in organization, showing cost by storm and by cost category, including but not limited to Regular Payroll, Overtime Payroll, Payroll Overheads, Contractors Cost for line restoration, Line Clearing Contractor costs, Logistics, Materials & Supplies, Other.

The Company will provide the information outlined above in a format that comports with the Company's record keeping and accounting practices on the timeline discussed below. Testimony will be filed after any required independent audit is concluded.

B. Initial Audit Required. The Company will engage an independent outside audit firm to conduct an audit of the Company's presentation of recoverable costs of the first named-storm for which claimed damages exceed at least 50% of its full authorized storm reserve amount or \$40 million, whichever is greater. The purpose, scope and activities of this audit will include, at a minimum, the following:

(1) Audit Purpose and Scope

- (a) The purpose of the audit is to validate that any and all storm costs paid were allowable, legitimate, accurate, incurred within the appropriate time period, adequately and completely supported, and properly approved, ensuring that only actual and approved storm costs are recovered in customer rates.
- (b) The scope of the audit should be sufficient to enable the auditor to evaluate the adequacy and effectiveness of the Company's internal controls (or processes) governing the vendor procurement process, including (1) complete rate agreement, (2) invoice/billing payment review process, and (3) the approval/denial/resolution process, including but not limited to, the Company's payment approval logic for reasonableness, allowability and compliance with contract terms.

(2) Audit Activities should include:

- (a) Interviews with key personnel
- (b) Review of operating policies and procedures

- (c) Review of relevant documents, such as executed contracts, labor and equipment rates, established work day hours, over time and double time criteria, and vendor employee rosters
 - (d) Comparisons between vendor employee rosters and approved timesheets, and expense receipts (hotel, fuel or meal)
 - (e) Inspection and comparison of paid invoices to submitted expense receipts, submitted timesheets
 - (f) Recalculation and reconciliation of paid invoices
 - (g) Reconciliation of paid invoices with overall vendor invoice summaries or utility expense recap documents
- C. Provision of Supporting Documentation. All supporting documentation referenced under **II.A** will be provided to Interveners in response to an agreed, standardized discovery request shortly after the filing of testimony.
- D. Cost recovery for initial process implementation. For the first qualifying storm described under **II.B**, the Consumer Parties will not object to and will support the Company recovering the start-up costs for the new procedures required under these processes (e.g. audit costs, base rate payroll for employees needed to implement the process).
- E. Incremental cost methodology. The Company will provide in its testimony full details as to how incremental and non-incremental costs were determined in accordance with the Incremental Cost Methodology Addendum below and Rule 25-6.0143, F.A.C. The Consumer Parties agree that the methodology explained below is a reasonable approach to identifying incremental storm costs as that concept is used in the rule.

Incremental Cost Methodology Addendum

- **Base Payroll:**
 - Affiliate employees: Charge time to the storm reserve charge codes. Then remove the difference between the actual and the 3-year historical average Affiliate base payroll dollars charged to IOU total Operation and Maintenance expense (“O&M”) for the month(s) of the activities directly related to the storm in the absence of a storm. This is the non-incremental portion.
 - IOU employees in Transmission and Distribution (“T & D”): Charge all time to the storm reserve charge codes. For each T & D function, remove the difference between the actual and the 3-year historical average functional O&M base payroll dollars for the month(s) of the activities directly related to the storm in the absence of a storm. This is the non-incremental portion.
 - IOU employees not in T & D and not clause recoverable: Charge all base payroll time to normal charge codes as non-incremental.
 - IOU employees who are clause recoverable: Charge all base payroll time to the storm reserve charge codes. This amount is incremental and recoverable.
 - The costs attributed to the new processes agreed to by the parties will be treated the same as the “IOU employees who are clause recoverable” bullet above for the first storm these processes are in place, and thereafter will be treated the same as the “IOU employees not in T&D and not clause recoverable” bullet above.
- **Overtime (OT):**
 - All IOU and Affiliate employees on storm duty charge OT to storm reserve charge codes.
 - Remove the difference between the actual and the 3-year historical average total IOU OT (including Affiliate OT charged to the IOU) for the month(s) of the activities directly related to the storm in the absence of a storm. This is the non-incremental portion.
- **Burdens:**
 - Labor burdens follow base and OT payroll charge codes. Follow the same procedures as base and OT payroll above.

- Exempt Supplemental Compensation (ESC):
 - All ESC associated with storm duty for employees who are eligible for overtime is charged to the storm reserve charge codes and is incremental recoverable.
- T & D Non-Vegetation Management Contractor Costs:
 - Non-native contractors: Charge all invoices to storm reserve charge codes as incremental recoverable.
 - Native contractors: Charge all time to storm reserve charge codes. For each T & D function, remove the difference between the actual and the 3-year historical average native contractor O&M costs for the month(s) of the activities directly related to the storm plus the month(s) following the storm in the absence of a storm. This is the non-incremental portion.
- T & D Vegetation Management Costs:
 - Charge all native and non-native vegetation contractor costs to the storm reserve charge codes.
 - For each T & D function, remove the difference between the actual and the 3-year historical average of vegetation management costs for the month(s) of the activities directly related to the storm plus the month(s) following the storm in the absence of a storm. This is the non-incremental portion.
- Capitalized Costs:
 - Use a combined simple average of hourly foreign and native contractor costs to determine amounts to capitalize to plant, property and equipment along with the materials and other cost of equipment.
 - IOUs will be authorized to defer the depreciation expense impact on 40% of the total capitalized amount as a regulatory asset until the next rate case or settlement, and then will amortize and recover said regulatory asset over a 4-year period.

Notes:

The term “IOU” (investor owned utility) is the same as Company and is used here to distinguish the operating regulated company from any affiliate.

To the extent that the three-year period referenced above in this Addendum includes a rate case or settlement test period, the approved rate case or settlement test period data for that year will be used in lieu of the actuals for that year that would otherwise be used in setting the 3-year average, and the other two years will be based on the actual results for those years.

The Company will include workpapers and journal entries that support the above calculations as part of its data request responses.

Other Provisions

7. The provisions of this Storm Cost Settlement Agreement are contingent upon approval of this Storm Cost Settlement Agreement in its entirety without modification. The Parties agree that approval of this Storm Cost Settlement Agreement is in the public interest. The Parties will support approval of this Storm Cost Settlement Agreement and will not request or support any order, relief, outcome or result in conflict with it. No Party to this Storm Cost Settlement Agreement will request, support or seek to impose a change to any provision of this Storm Cost Settlement Agreement without the agreement of the other Parties. Approval of this Storm Cost Settlement Agreement in its entirety will resolve all matters and issues in this docket. This docket will be closed effective on the date the Commission Order approving this Storm Cost Settlement Agreement is final, and no Party shall seek appellate review of any order issued in this docket.

8. The Parties agree that the non-confidential discovery answers and responses provided to the Parties in this docket will be admitted without cross-examination or objection into the evidentiary record in this docket to support this Storm Cost Settlement Agreement.

9. If any conflict between the terms of this Storm Cost Settlement Agreement, the 2017 Agreement, and the Amended Implementation Stipulation shall arise, the terms of the 2017 Agreement and the Amended Implementation Stipulation shall control over the provisions of this Storm Cost Settlement Agreement.

10. This Storm Cost Settlement Agreement may be executed in counterpart originals, and a scanned pdf copy of an original signature will be deemed an original. Any principal or entity that executes, or causes to be executed, a signature page to this Storm Cost Settlement Agreement will be deemed and become a Party with the full range of rights, obligations, and responsibilities

provide hereunder, notwithstanding that such principal or entity is not listed in the first recital above or executes the signature page subsequent to the date of this Storm Cost Settlement Agreement. It is expressly understood that the addition of any such additional Party or Parties will not disturb or diminish the benefits of this Storm Cost Settlement Agreement to any current Party.

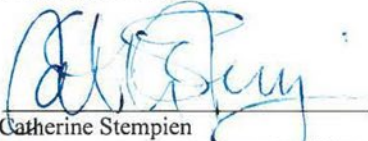
DATED this 18th day of April, 2019.

IN WITNESS WHEREOF, the Parties evidence their acceptance and agreement with the provisions of this Storm Cost Recovery Agreement by their signature(s):

[Remainder of Page Intentionally Left Blank]

Signature Page to DEF Storm Cost Settlement Agreement

Duke Energy Florida, LLC
299 1st Ave. N
St. Petersburg, FL 33701

By: 
Catherine Stempien
Duke Energy Florida, State President

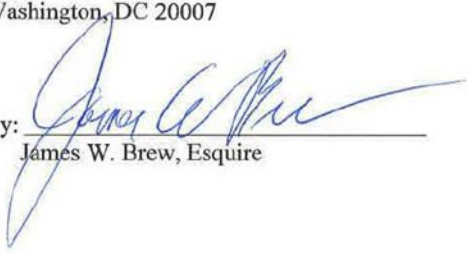
Signature Page to DEF Storm Cost Settlement Agreement

Office of Public Counsel
J. R. Kelly, Esquire
Public Counsel
Charles Rehwinkel, Esquire
Deputy Public Counsel
Thomas A. David
Associate Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

By: 
J.R. Kelly

Signature Page to DEF Storm Cost Settlement Agreement

White Springs Agricultural Chemicals, Inc.
James W. Brew, Esquire
Stone Mattheis Xenopoulos & Brew
1025 Thomas Jefferson Street, N.W.
Eighth Floor, West Tower
Washington, DC 20007

By: 
James W. Brew, Esquire

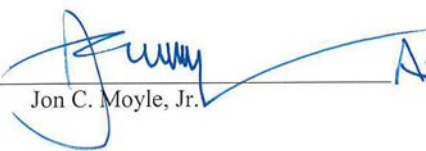
Signature Page to DEF Storm Cost Settlement Agreement

Florida Retail Federation
Robert Scheffel Wright
Gardner, Bist, Bowden, Bush, Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, FL 32308

By: 
Robert Scheffel Wright

Signature Page to DEF Storm Cost Settlement Agreement

The Florida Industrial Power Users Group
Jon C. Moyle, Jr., Esquire
Moyle Law Firm
The Perkins House
118 North Gadsden Street
Tallahassee, FL 32301

By:  April 9, 2019
Jon C. Moyle, Jr.

Item 2

State of Florida



Public Service Commission

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

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

DATE: July 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Vogel, McGowan, Ferrer) *ALM*
 Division of Economics (Hampson, Hudson) *EJD*
 Office of the General Counsel (Dose, Farooqi) *JSC*

RE: Docket No. 20240046-GU – Petition for rate increase by St. Joe Natural Gas Company, Inc.

AGENDA: 08/06/24 – Regular Agenda – Decision on Interim Rates – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: 08/06/24 (60-day provision of Section 366.071(2), F.S., waived by Company until 08/06/24)

SPECIAL INSTRUCTIONS: None

Case Background

On May 29, 2024, St. Joe Natural Gas Company, Inc. (SJNG or Company) filed a petition seeking Commission approval to increase rates and charges. SJNG provides sales and transportation of natural gas and is a public utility subject to the Commission's regulatory jurisdiction under Chapter 366, Florida Statutes (F.S.). SJNG currently serves approximately 3,186 residential and commercial customers in Gulf and Bay Counties. In its petition, SJNG requested an increase of \$1,043,838 in additional gross annual revenues. The requested increase, according to SJNG, will provide the Company with an opportunity to earn an overall rate of return of 6.05 percent on the Company's plant and property used to serve its customers based on a midpoint return on equity of 11.00 percent. The Company based its request on a 13-month average rate base of \$3,381,746 for the projected test year ending December 2024. SJNG is also

proposing to restructure its residential service class to reduce stratification within the residential classes. Per Rule 25-7.140(1)(d), Florida Administrative Code (F.A.C.), SJNG has elected to use the five month Proposed Agency Action process authorized in Section 366.06(4) F.S.

SJNG's last approved rate case was in 2008 in Docket No. 20070592-GU.¹ More recently, in Docket No. 20230022-GU, the Commission approved new depreciation rates with an implementation date of January 1, 2023. Notably, in Docket No. 20160033-GU,² the Commission approved SJNG's request to reallocate the \$285,011 annual revenue deficiency resulting from the permanent loss of its largest customer, the Arizona Chemical Company, to the remaining customer classes. Also, in Docket No. 20200039-GU,³ the Commission approved a temporary storm cost recovery surcharge to deal with Hurricane Michael recovery.

The Utility stated that the key drivers for the proposed rate increase are: current rates not recovering its property tax expense or property insurance expense, increases to rate base associated with extensions to serve new customers, increasing operating expenses reflecting nearly 16 years of inflation, and increases in regulatory costs, particularly federal pipeline safety regulations.

In its petition, the Company also requested an interim rate increase of \$612,209 based on a historic test year ended December 31, 2023. Section 366.071, F.S., addresses interim rates and procedures and requires the Commission to authorize within 60 days of a filing for an interim rate increase the collection of interim rates. On May 29, 2024, the Company waived the 60-day provision of Section 366.071(2), F.S., and agreed to defer implementation of the proposed interim rates until the issue is addressed at the scheduled August 6, 2024, Commission Conference.⁴ This recommendation addresses the requested interim revenue increase and rates and the suspension of the Company's requested permanent rate increase. The Commission has jurisdiction over this request under Sections 366.06 and 366.071, F.S.

¹Order No. PSC-2008-0436-PAA-GU, issued July 8, 2008, in Docket No. 20070592-GU, *In re: Petition for rate increase by St. Joe Natural Gas Company, Inc.*

²Order No. PSC-2016-0297-PAA-GU, issued July 27, 2016, in Docket No. 20160033-GU, *In re: Petition for limited proceeding to restructure rates by St. Joe Natural Gas Company, Inc.*

³Order No. PSC-2021-0196-AS-GU, issued June 3, 2021, in Docket No. 20200039-GU, *In re: Petition for approval to implement a temporary storm cost recovery surcharge, by St. Joe Natural Gas Company, Inc.*

⁴Document No. 04381-2024, filed May 30, 2024.

Discussion of Issues

Issue 1: Should the request for a permanent increase in rates and charges be suspended for SJNG?

Recommendation: Yes. Staff recommends that the requested permanent increase in rates and charges be suspended for SJNG. (Vogel)

Staff Analysis: Staff recommends that the requested permanent increase in rates and charges be suspended for SJNG to allow staff time to analyze the case. Pursuant to Section 366.06(3), F.S., the Commission may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility requesting such a change, a reason, or written statement of good cause for doing so within 60 days. On May 29, 2024, the Company waived the 60-day provision of Section 366.071(2), F.S., and agreed to defer the file and suspend requirements until the issue is addressed at the scheduled August 6, 2024 Commission Conference.⁵ Staff believes that the reasons stated above are good cause consistent with the requirements of Section 366.06(3), F.S.

⁵Document No. 04381-2024, filed May 30, 2024.

Issue 2: Is SJNG's proposed interim rate base appropriate?

Recommendation: No. The appropriate interim rate base for SJNG should be \$3,166,968. (Vogel)

Staff Analysis: In its filing, the Company proposed an interim 13-month average rate base of \$3,186,767 for the period ended December 31, 2023. Pursuant to Section 366.071(5)(a), F.S., the Company is permitted to elect either an average or year-end rate base to calculate its interim revenue request. Staff reviewed the rate base adjustments made in the current interim filing for consistency with the Commission-approved adjustments in SJNG's last rate case proceeding, where appropriate, as well as other applicable dockets.⁶ Based on staff's review, it appears that the Company made applicable adjustments that are consistent with the prior Commission Orders. However, the Company made adjustments to plant and accumulated depreciation based on its non-utility allocation percentage from 2022. Therefore, staff recommends adjustments to decrease plant and accumulated depreciation by \$58,773 and \$38,974, respectively, to reflect non-utility allocation for the proper 2023 interim test year. As such, staff recommends that \$3,166,968 is the appropriate amount of rate base for the historical interim test year ended December 31, 2023. The calculations are shown on Attachment A.

⁶Order No. PSC-2008-0436-PAA-GU.

Issue 3: Is SJNG's proposed interim return on equity and overall rate of return appropriate?

Recommendation: No. The appropriate return on equity for SJNG should be 10.00 percent and the overall cost of capital should be 4.81 percent for purposes of determining interim rates. (Vogel)

Staff Analysis: For purposes of its interim rate request, SJNG used an overall cost of capital of 5.46 percent based on a return on equity (ROE) of 11.00 percent. The Company reflected a capital structure for the 13-month average historical interim test year ended December 31, 2023. Staff believes several adjustments are necessary.

Pursuant to Section 366.071(2)(a), F.S., the appropriate ROE for purposes of determining an interim rate increase is the minimum of the Company's currently authorized ROE range. In its last rate case, SJNG's ROE midpoint was set at 11.00 percent, with a range of plus or minus 100 basis points. Therefore, staff recommends an ROE of 10.00 percent for the purpose of determining interim rates.

In the last rate case, the Commission made an adjustment to limit the Company's equity ratio to no more than 60 percent equity as a percentage of investor sources of capital.⁷ In the present filing, SJNG's equity ratio exceeds 60 percent. Therefore, staff recommends making an adjustment to the capital structure to limit the equity ratio to 60 percent equity as a percentage of investor capital.

Additionally, MFR Schedule F-8 reflected total capital that was not equal to the rate base that staff is recommending. Therefore, staff made pro rata adjustments to the investor sources of capital to reconcile to rate base. These adjustments result in an overall cost of capital of 4.81 percent.

Staff recommends that the capital structure of SJNG for the historical interim 13-month average test year reflect an ROE of 10.00 percent, resulting in an overall cost of capital of 4.81 percent. Attachment B details the calculations of the overall cost of capital.

⁷Order No. PSC-2008-0436-PAA-GU.

Issue 4: Is SJNG's proposed interim test year net operating income appropriate?

Recommendation: No. The appropriate historical base year ended December 31, 2023, net operating income for SJNG should be negative \$250,357. (Vogel)

Staff Analysis: The proposed net operating income for SJNG of negative \$284,430 is the twelve-month amount for the historical interim test year ended December 31, 2023. Staff reviewed the net operating income adjustments made in the current interim filing for consistency with the Commission-approved adjustments in the last rate case proceeding, as well as other applicable dockets.⁸ Based on staff's review, it appears that the Company made applicable adjustments that are consistent with the prior Commission Order. However, MFR Schedule F-4 failed to reflect the Company's adjustment to depreciation expense based on its non-utility allocation percentage. Therefore, staff is recommending an adjustment to reduce depreciation expense by \$34,073 to reflect the appropriate 2023 allocation. Staff is also recommending adjustments to rate base in Issue 2 and cost of capital in Issue 3. These adjustments have fallout effects which have altered the proposed net operating income for SJNG.

Staff recommends that negative \$250,357 is the appropriate amount of net operating income for the historical interim test year ended December 31, 2023. The calculations are shown on Attachment A.

⁸Order No. PSC-2008-0436-PAA-GU.

Issue 5: Is SJNG's proposed interim net operating income multiplier appropriate?

Recommendation: No. SJNG should be granted an interim net operating income (NOI) multiplier of 1.3503. (Vogel)

Staff Analysis: On MFR Schedule F-6, SJNG calculated an interim NOI multiplier of 1.3356 based on a revenue expansion factor of 74.8744 using a 21 percent federal income tax rate, a 4.458 percent state income tax rate, a 0.3 percent bad debt rate and a 0.5 percent factor for regulatory assessment fees. However, the appropriate state income tax rate for the interim test year should be 5.5 percent. Therefore, staff recommends that 1.3503 is the appropriate interim NOI multiplier. The calculations are shown below.

Table 5-1
Interim NOI Multiplier

<u>Description</u>	
Revenue Requirement	100.0000%
Regulatory Assessment Fee	-0.5000%
Bad Debt Rate	<u>-0.3000%</u>
Net Before Income Tax	99.2000%
State Income Tax @ 5.5%	-5.4175%
Federal Income Tax @ 21%	<u>-19.6862%</u>
Revenue Expansion Factor	<u>74.0578%</u>
NOI Multiplier (100/74.0578)	<u>1.3503</u>

Issue 6: Should SJNG's requested interim revenue increase be granted?

Recommendation: No. The appropriate interim revenue increase for SJNG should be \$543,665. (Vogel)

Staff Analysis: SJNG requested interim rate relief of \$612,209 for the historical test year ended December 31, 2013. As discussed in Issues 2, 3, 4, and 5, staff is recommending adjustments to the Company's rate base, cost of capital, NOI, and NOI multiplier. These adjustments result in fallout adjustments to the total interim revenue increase for SJNG. As such, staff recommends that the appropriate revenue increase is \$543,665 for the historical test year ended December 31, 2023.

The interim revenue increases would allow SJNG an opportunity to earn an overall rate of return of 4.81 percent based on the minimum range of return on equity of 10.00 percent.

After a determination of the permanent rate increase has been made, the interim rate increase will be reviewed to determine if any portion should be refunded to customers. The calculation of interim rate relief is shown in Table 6-1.

Table 6-1
Interim Revenue Increase

Description	
Jurisdictional Adjusted Rate Base	\$3,166,968
Overall Rate of Return	<u>4.81%</u>
Jurisdictional Net Operating Income	\$152,268
Jurisdictional Adjusted Net Operating Income	(\$250,357)
Revenue Deficiency	\$402,625
Net Operating Income Multiplier	<u>1.3503</u>
Interim Revenue Increase	\$543,665
Base Rate Revenues	\$1,293,560
Recommended Percentage Increase Factor	42.03%

Issue 7: Should SJNG's proposed interim rates and associated tariffs be approved?

Recommendation: No, SJNG's proposed interim rates and associated tariff should not be approved. If the staff-recommended adjustments are approved by the Commission, the Company should file a revised interim tariff for administrative approval by staff. The interim rates should be made effective for all meter readings occurring on or after thirty days from the date of the Commission vote. In addition, pursuant to Rule 25-22.0406(8), F.A.C., the Company should provide notice to customers of the revised rates. The notice must be approved in advance by staff and provided to the customers with the first bill containing the new rates. (Hampson)

Staff Analysis: As discussed in Issue 6, staff recommends adjustments to the interim revenue request by SJNG. Attachment C to the recommendation provides the allocation of the interim increase. Furthermore, Attachment C provides the resulting cents-per-therm increase to be applied to the rate classes to recover the staff-recommended interim revenue increase. These increases were calculated using the methodology contained in Rule 25-7.040, F.A.C., which requires that any increase be applied evenly across the board to all rate classes based on their base rate revenues.

The interim rates should be made effective for all meter readings occurring on or after thirty days from the date of the Commission vote. The Company included proposed interim tariff sheet No. 84 in its petition. If the staff-recommended adjustments are approved by the Commission, the Company should file a revised interim tariff for administrative approval by staff. Pursuant to Rule 25-22.0406(8), F.A.C., the Company should provide notice to customers of the revised rates. The notice must be approved in advance by staff and provided to the customers with the first bill containing the new rates.

Date: July 25, 2024

Issue 8: What is the appropriate security to guarantee the amount subject to refund?

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

Staff Analysis: Staff recommends that all funds collected subject to refund be secured by a corporate undertaking. The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. SJNG requested an interim revenue increase of \$612,209. In Issue 6, staff recommends an interim revenue increase of \$543,665. Based on an estimated eight-month collection period of interim rates, staff has calculated the maximum amount of revenues that may need to be protected is \$364,256. Staff reviewed SJNG's three most recent annual reports filed with the Commission (2023, 2022, and 2021) to determine if the Company can support a corporate undertaking to guarantee the funds collected during the interim collection period. SJNG's financial information demonstrates the Company has acceptable levels of liquidity, ownership equity, and interest coverage to support a potential refund of \$364,256.

Staff believes SJNG has adequate resources to support a corporate undertaking in the amount recommended in Issue 6. Based on this analysis, staff recommends that a corporate undertaking of \$364,256 is acceptable. This brief financial analysis is only appropriate for deciding if the Company can support a corporate undertaking in the amount requested and should not be considered a finding regarding staff's position on other issues in this proceeding.

Issue 9: Should this docket be closed?

Recommendation: No. This docket should remain open to process the revenue increase request of the Company. (Dose)

Staff Analysis: This docket should remain open pending the Commission's final resolution of the Company's requested rate increase.

ST. JOE NATURAL GAS COMPANY, INC.
Docket No. 20240046-GU
Interim Base Year
December 31, 2023

	Adjusted Base Year Per Company	Adjustments	Adjusted Base Year Per Staff
<u>Rate Base</u>			
Plant in Service	\$9,253,814	-	\$9,253,814
Common Plant Allowed	(216,805)	(58,773)	(275,578)
Accumulated Depreciation	(6,055,109)	38,974	(6,016,135)
Net Plant in Service	\$2,981,900	(19,799)	\$2,962,101
Construction Work In Progress	158,646	-	158,646
Net Utility Plant	\$3,140,546	(19,799)	\$3,120,747
Working Capital Allowance	46,221	-	46,221
Total Rate Base	\$3,186,767	(19,799)	\$3,166,968
 <u>Income Statement</u>			
Operating Revenues	\$1,652,727	-	\$1,652,727
Operating Expenses:			
Operation & Maintenance	\$1,379,944	-	\$1,379,944
Depreciation & Amortization	381,751	(34,073)	347,678
Taxes Other Than Income	175,462	-	175,462
Income Taxes - Federal	-	-	-
Income Taxes - State	-	-	-
Total Operating Expenses	\$1,937,157	(\$34,073)	\$1,903,084
Net Operating Income	(\$284,430)	\$34,073	(\$250,357)
Overall Rate of Return	<u>-8.93%</u>		<u>-7.91%</u>

ST. JOE NATURAL GAS COMPANY, INC.
Docket No. 20240046-GU
Interim Base Year
December 31, 2023

Capital Component	Jurisdictional Capital Structure	Cost Ratio	Rate	Weighted Cost Rate
Long-Term Debt	\$49,019	1.55%	6.50%	0.10%
Long-Term Debt – Shoaf Family	653,242	20.63%	6.50%	1.34%
Customer Deposits	64,115	2.02%	2.00%	0.04%
Common Equity	1,053,392	33.26%	10.00%	3.33%
Deferred Income Taxes	937,870	29.61%	0.00%	0.00%
Deferred Credits – FCPC & GCI	409,330	12.92%	0.00%	0.00%
Total	\$319,224,069	100.00%		4.81%

Calculation Of Interim Rate Relief - Deficiency Allocation Including Staff Recommended Adjustments Year Ended 12/31/23									
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Line No.	Rate Schedule	Bills	Therm Sales	Customer Charge	Delivery Charge	Total (4+5)	Dollar Increase	Percent Increase	Cents Per Therm Increase
1	RS-1	13,785	98,200	\$179,192	\$124,365	\$303,557	\$127,580	42.03%	\$1.2992
2	RS-2	13,932	169,748	223,036	149,354	372,390	156,510	42.03%	0.9220
3	RS-3	8,151	168,591	163,163	121,807	284,970	119,769	42.03%	0.7104
4	GS-1	1,930	132,929	38,590	84,417	123,007	51,698	42.03%	0.3889
5	GS-2	412	209,923	29,260	91,068	120,328	50,572	42.03%	0.2409
6	GS-4	12	95,847	24,000	15,182	39,182	16,468	42.03%	0.1718
7	TS-4	12	164,934	24,000	26,126	50,126	21,067	42.03%	0.1277
8	Total	<u>38,234</u>	<u>1,040,172</u>	<u>\$681,241</u>	<u>\$612,319</u>	<u>\$1,293,560</u>	<u>\$543,665</u>	<u>42.03%</u>	<u>\$0.5227</u>

Item 3

State of Florida



Public Service Commission

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

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

DATE: July 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Sewards, Thurmond) *ALM*
Office of the General Counsel (Sandy) *JSC*

RE: Docket No. 20240068-WS – Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties, by Sunshine Water Services Company.

AGENDA: 08/06/24 – Regular Agenda – Tariff Suspension – Participation is at the discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: 08/27/24 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

Sunshine Water Services Company (Sunshine or Utility) is a Class A utility providing water and wastewater services to approximately 35,171 water and 29,547 wastewater customers in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties. Rates were last established for this Utility in its 2020 rate case.¹

On June 28, 2024, Sunshine filed its application for the rate increase at issue in the instant docket. The Utility elected to proceed directly to hearing pursuant to Section 367.081, Florida Statutes (F.S.). On July 26, 2024, staff sent the Utility a letter indicating deficiencies in the filing

¹Order No. PSC-2021-0206-FOF-WS, issued June 4, 2021, in Docket No. 20200139-WS, *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties, by Utilities, Inc. of Florida.*

of its minimum filing requirements (MFRs). Corrections to the MFRs are due no later than August 28, 2024. The official date of filing will be established for noticing purposes once the deficiencies are cured.

The Utility's application for an increase to water and wastewater rates is based on the historical 13-month average period ended December 31, 2023 and includes adjustments for pro forma projects. Sunshine has also requested an increase in service availability charges and establishment of customer deposits.

Additionally, Sunshine has requested authorization to defer benefits and costs incurred as a result of its parent company's merger. In 2022, Sunshine's parent companies, Corix Infrastructure Inc. and Corix US, entered into a transaction agreement to merge its businesses with IIF Subway Investment LP, SWMAC, and SouthWest Water Company. As the transaction occurred at the parent level, Sunshine was not directly affected.

In 2021, the Utility filed an application for acknowledgment of a name change from Utilities, Inc. of Florida to Sunshine Water Services.² In 2023, Sunshine recorded total company operating revenues of \$22,532,175 and \$28,276,590 for water and wastewater, respectively. The Utility also recorded net operating income of \$4,397,860 and \$4,947,111 for water and wastewater, respectively.

The 60-day statutory deadline for the Commission to suspend the Utility's requested rates is August 27, 2024. This recommendation addresses the suspension of the Utility's requested rates. The Commission has jurisdiction pursuant to Sections 367.081 and 367.082, F.S.

²Order No. PSC-2022-0094-FOF-WS, issued February 21, 2022, in Docket No. 20210185-WS, *In re: Application for name change on Certificate Nos. 414-W, 592-W, 496-W, 278-W, 040-W, 107-W, 204-W, 410-W, 567-S, 347-S, 509-S, 369-S, 081-S, 465-S, 225-S, 229-S, 305-S in Charlotte, Highlands, Lake, Lee, Marion, Orange, and Pasco, Pinellas, Polk, and Seminole Counties, from Utilities, Inc. of Florida to Sunshine Water Services Company d/b/a Sunshine Water Services.*

Discussion of Issues

Issue 1: Should the Utility's proposed final water and wastewater rates be suspended?

Recommendation: Yes. Sunshine's proposed final water and wastewater rates should be suspended. (Thurmond, Swards)

Staff Analysis: Section 367.081(6), F.S., provides that the rates proposed by a utility shall become effective within sixty days after filing unless the Commission votes to withhold consent of implementation of the requested rates. Further, the above referenced statute permits the proposed final rates to go into effect, under bond, escrow, or corporate undertaking eight months after filing unless final action has been taken by the Commission.

Staff has reviewed the filing and the proposed rates, the revenues thereby generated, and the information filed in support of the rate application. Staff believes that it is reasonable and necessary to require further amplification and explanation regarding this data, and to require production of additional and/or corroborative data. This further examination will include a review by staff accountants and engineers. To date, staff has initiated an audit of Sunshine's books and records, as well as an audit of the Utility's parent, to examine allocated investment and operating expenses. This combined audit is currently due on October 17, 2024. Staff believes additional discovery requests will be necessary. Therefore, staff recommends suspension of the Utility's proposed rate increase to allow staff and any intervenors sufficient time to adequately and thoroughly examine the appropriateness of the Utility's request for final rate relief.

Issue 2: Should this docket be closed?

Recommendation: The docket should remain open pending the Commission's final action on the Utility's requested rate increase. (Sandy)

Staff Analysis: The docket should remain open pending the Commission's final action on the Utility's requested rate increase.

Item 4

FILED 7/25/2024
DOCUMENT NO. 07819-2024
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: July 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Ramirez-Abundez, Ramos, Watts) *TB*
 Division of Accounting and Finance (Norris, Sowards) *ALM*
 Division of Economics (Bethea, Bruce) *CP*
 Office of the General Counsel (Sandy, Crawford) *JSC*

RE: Docket No. 20240023-WS – Application for certificates to provide water and wastewater service and approval of initial rates and charges in Lake County, by North Lake County Water & Sewer Company LLC.

AGENDA: 08/06/24 – Regular Agenda – Proposed Agency Action, Except for Issue 1 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: 08/06/24 (Statutory deadline for original certificate pursuant to Section 367.031, Florida Statutes, waived by applicant until 08/06/24)

SPECIAL INSTRUCTIONS: None

Case Background

On January 23, 2024, North Lake County Water & Sewer Company LLC (North Lake or Utility) filed its application for original water and wastewater certificates in Lake County.¹ The area is in the St. John River Water Management District (SJWMD) and is in a water use caution area. The Utility anticipates providing water and wastewater services to approximately 535 residential and

¹Document No. 00293-2024, filed January 23, 2024, in Docket No. 20240023-WS.

three commercial customers. The Utility intends to begin serving customers in the first quarter of 2025.

The Utility's initial application was found to be deficient and staff issued a deficiency letter on February 22, 2024.² North Lake filed a response to the deficiencies on March 04, 2024.³ The application was still found to be deficient, and staff issued a second deficiency letter dated March 14, 2024.⁴ North Lake filed a response to the second deficiency letter on March 18, 2024.⁵ However, the application remained deficient, resulting in a third deficiency letter from staff on March 26, 2024.⁶ North Lake cured the deficiencies on April 17, 2024.

Pursuant to Section 367.031, Florida Statutes (F.S.), the Florida Public Service Commission (Commission) shall grant or deny an application for a certificate of authorization within 90 days of the official filing date of the completed application. The application was deemed complete on April 17, 2024, which is considered the official filing date. North Lake waived the 90-day statutory deadline through August 06, 2024.⁷ In its application, the Utility proposed miscellaneous service charges; however, on July 23, 2024, the Utility withdrew its request.

This recommendation addresses the application for original water and wastewater certificates and the appropriate rates and charges for the Utility. The Commission has jurisdiction pursuant to Sections 367.031 and 367.045, F.S.

²Document No. 00847-2024, filed February 22, 2024, in Docket No. 20240023-WS.

³Document No. 01010-2024, filed March 04, 2024, in Docket No. 20240023-WS.

⁴Document No. 01162-2024, filed March 14, 2024, in Docket No. 20240023-WS.

⁵Document No. 01206-2024, filed March 18, 2024, in Docket No. 20240023-WS.

⁶Document No. 01322-2024, filed March 26, 2024, in Docket No. 20240023-WS.

⁷Document No. 02512-2024, filed April 29, 2024, in Docket No. 20240023-WS.

Discussion of Issues

Issue 1: Should the application for water and wastewater certificates by North Lake be approved?

Recommendation: Yes. North Lake should be granted Certificate Nos. 683-W and 583-S to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as North Lake's water and wastewater certificates and it should be retained by the Utility. (Ramirez-Abundez, Sowards)

Staff Analysis: On January 23, 2024, North Lake filed an application for original water and wastewater certificates in Lake County. Upon review, staff determined the original filing was deficient and sent three deficiency letters, as well as three data requests to the Utility seeking additional information. North Lake corrected the deficiencies on April 17, 2024, which is considered the official filing date for the application. This Utility's application is in compliance with the governing statutes, Section 367.031 and Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for original certificates.

Pursuant to Section 367.045(1)(b), F.S., the Utility provided a letter from GPK Harris Lake LLC⁸, the developer of the community, requesting water and wastewater services from North Lake. In a separate letter, the Utility also stated that no other water or wastewater service providers exist within geographical proximity to the area.⁹ This Utility's application is in compliance with the governing statutes, Section 367.031 and Section 367.045, F.S., and other pertinent statutes and administrative rules concerning an application for original certificates.

Notice

On April 08, 2024, North Lake filed proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code (F.A.C.). The notice of application for an initial certificate of authorization for water and wastewater certificates was provided to property owners on April 5, 2024, mailed to the entities required on April 08, 2024, and published as required on April 11, 2024. No objections to the notice of application have been received and the time for filing has expired.

Land Ownership and Service Territory

North Lake provided adequate service territory and system maps and a territory description as required by Rule 25-30.033, F.A.C. The legal description of the service territory is appended to this recommendation as Attachment A. The application contains two recorded warranty deeds, executed June 24, 2021, and May 15, 2023, as evidence that the Utility has access to the land upon which the water and wastewater treatment facilities are located pursuant to Rule 25-30.033 (1)(m), F.A.C.

Financial and Technical Ability

Rule 25-30.033(1)(h), F.A.C., requires a statement showing the financial ability of the applicant to provide service, a detailed financial statement, and a list of all entities upon which the

⁸Document No. 01010-2024, filed March 4, 2024, in Docket No. 20240023-WS.

⁹Document No. 07721-2024, filed July 22, 2024, in Docket No. 20240023-WS.

applicant is relying to provide funding. Regarding financial ability, North Lake's ownership is comprised of three entities which also comprise the party developing the subdivision (collectively known as the Developer) in the proposed service area. The Utility stated that the Developer has provided the necessary start-up funding as well as funds sufficient to cover operational shortfalls during the Utility's initial year of operation. The Commission has traditionally allowed reliance on the parent company's financial ability.¹⁰ The Commission's reasoning has been the logical vested interest of a parent company in the financial stability of its related parties. The application contains North Lake's recent financial statements and the Utility provided the personal financial statements of Mr. Sen Zhang, a member of the Developer group.¹¹ Staff has reviewed North Lake's financial statements as well as the Developer's financial statements and believes the Utility has shown adequate and stable funding reserves. Therefore, staff recommends that North Lake has demonstrated that it will have access to adequate financial resources to operate the Utility.

Rule 25-30.034(1)(i), F.A.C., requires the applicant to demonstrate the technical abilities to provide service. Within its application, the Utility stated that it has the technical ability to provide service. The Utility has retained water and wastewater engineers from Wicks Engineering to design the water and wastewater systems. North Lake further stated that for operations, the Utility retained General Utilities Corporation, along with RCM Utilities, LLC for meter reading and billing. The Utility also retained the law firm of Dean Mead to provide legal regulatory advice to the Utility.

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

Conclusion

Staff recommends that it is in the public interest to grant North Lake Certificate Nos. 683-W and 583-S to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as North Lake's water and wastewater certificates and it should be retained by the Utility.

¹⁰Order No. PSC-2022-0437-PAA-WS, issued December 27, 2022, in Docket No. 20220088-WS, *In re: Application for certificates to provide water and wastewater service and approval of initial rates and charges in Sumter County, by Middleton Utility Company, LLC*; Order Nos. PSC-17-0059-PAA-WS, issued February 24, 2017, in Docket No. 20160220-WS, *In re: Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.*; PSC-13-0484-FOF-WS, issued October 15, 2013, in Docket No. 20130105-WS, *In re: Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services of Hendry & Collier, LLC*; and PSC-12-0224-PAA-WS, issued April 30, 2012, in Docket No. 20090445-WS, *In re: Application for original certificates for proposed water and wastewater system and request for initial rates and charges in Indian River, Okeechobee, and St. Lucie counties by Grove Land Utilities, LLC.*

¹¹Document No. 07141-2024.

Issue 2: What are the appropriate water and wastewater rates and return on investment for North Lake?

Recommendation: Staff's recommended water and wastewater rates, shown on Schedule Nos. 4-A and 4-B, are reasonable and should be approved. The overall cost of capital should be set at 8.42 percent. A return on equity (ROE) of 8.66 percent with a range of plus or minus 100 basis points should also be approved. The approved rates should be effective for services rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. (Sewards, Bethea)

Staff Analysis:

Projected Rate Base

Consistent with Commission practice in applications for original certificates, rate base is identified only as a tool to aid in setting initial rates and is not intended to formally establish rate base. Based on North Lake's growth projections, the Utility anticipates operating at 80 percent of its design capacity in 2029. The Utility's proposed water and wastewater rate base calculations, as well as staff adjustments, are described below.

North Lake proposed utility plant in service balances (UPIS) of \$6,597,287 for water and \$6,770,776 for wastewater. The Utility's initial filing did not include meters in the UPIS balance for water as they are being contributed by the developer. Despite being contributed, it is still appropriate to reflect the assets just as the Utility reflected all other contributed assets. In its response to staff's third data request, the Utility provided its calculation for the contributed meters.¹² Based on the addition of meters, water UPIS should be increased by \$356,000, resulting in a balance of \$6,953,287. Staff does not have any adjustments to wastewater. As such, staff recommends UPIS balances of \$6,953,287 for water and \$6,770,776 for wastewater.

The Utility proposed land and land rights balances of \$425,000 for both water and wastewater. Staff has no adjustments to the Utility's proposed balances. As such, staff recommends land and land rights balances of \$425,000 for both water and wastewater.

North Lake proposed an accumulated depreciation balance of \$874,656 for water and \$1,056,162 for wastewater. Based on the recommended plant balances, staff recalculated accumulated depreciation using the depreciation rates established by Rule 25-30.140, F.A.C. As a result, accumulated depreciation should be increased by \$44,353 for water and decreased by \$4,118 for wastewater. As such, staff recommends accumulated depreciation balances of \$919,009 for water and \$1,052,044 for wastewater.

In its filing, the Utility proposed contributions in aid of construction (CIAC) balances of \$3,431,203 for water and \$4,127,925 for wastewater. CIAC balance for water should be increased by \$356,000 to reflect the meters discussed above. Additionally the Utility's work papers supporting the Utility's filing indicated that \$143,750 for lift stations should be reflected

¹²Document No. 03836-2024.

in wastewater CIAC, but was not included in the Utility's balance. In response to staff's second data request, North Lake stated that lift stations are contributed and should be included in CIAC.¹³ As such, staff recommends an adjustment to increase the wastewater CIAC balance by \$143,750 to account for the lift stations. Based on the above, staff recommends CIAC balances of \$3,787,203 for water and \$4,271,675 for wastewater.

North Lake proposed accumulated amortization of CIAC balances of \$343,815 for water and \$466,762 for wastewater. Based on the recommended CIAC balances, staff recalculated accumulated amortization of CIAC using the correct accounts and depreciation rates. As a result, staff recommends that accumulated amortization of CIAC be increased by \$44,100 for water and \$28,076 for wastewater. As such, staff recommends accumulated amortization of CIAC balances of \$387,915 for water and \$494,838 for wastewater.

North Lake proposed a working capital allowance of \$7,368 for water and \$7,368 for wastewater based on one-eighth of the estimated operation and maintenance (O&M) expenses for each system. The Commission has previously allowed this methodology in original certificate cases as the O&M expenses are estimated.¹⁴ Based on the adjustments discussed in the O&M expenses section below, staff recommends a reduction of \$908 to both water wastewater. As a result, staff recommends a working capital allowance of \$6,460 for water and \$6,460 for wastewater.

In total, the Utility proposed a rate base of \$3,067,611 for water and \$2,485,819 for wastewater. Based on the adjustments discussed above, staff recommends that the rate base be decreased by \$1,161 for water and \$112,465 for wastewater. As such, staff recommends an adjusted rate base of \$3,066,450 for water and \$2,373,355 for wastewater be approved. Rate base calculations for the water and wastewater systems are shown on Schedule Nos. 1-A and 1-B, respectively. Staff's adjustments are shown on Schedule No. 1-C.

Cost of Capital

North Lake proposed an ROE of 8.54 percent, based on the leverage formula in effect at the time of filing.¹⁵ However, it has been Commission practice to use the leverage formula currently in effect to determine a Utility's ROE.¹⁶ As such, staff recommends the Utility's ROE be based on the current leverage formula in effect.¹⁷ Using the current leverage formula, staff recommends an

¹³Document No. 03014-2024.

¹⁴Order No. PSC-2022-0437-PAA-WS, issued December 27, 2022, in Docket No. 20220088-WS, *In re: Application for certificates to provide water and wastewater service and approval of initial rates and charges in Sumter County, by Middleton Utility Company, LLC.* p. 6.

¹⁵Order 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.*

¹⁶Order No. PSC-2022-0404-PAA-WS, issued November 21, 2022, in Docket No. 20200185-WS, *In re: Application for certificated to provide water and wastewater services in Lake and Sumter Counties, by Gibson Place Utility Company, LLC.*; Order No. PSC-2022-0437-PAA-WS, issued December 27, 2022, in Docket No. 20220088-WS, *In re: Application for certificated to provide water and wastewater services and approval of initial rates and changes in Sumter County, by Middleton Utility Company, LLC.*

¹⁷Order No. PSC-2024-0189-PAA-WS, issued May, 22, 2024, in Docket No. 20240006-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.* p. 5.

ROE of 8.66 percent, with a range of plus or minus 100 basis points, as shown on Schedule No. 2. As such, staff recommends an ROE of 8.66 percent and an overall cost of capital of 8.42 percent.

Net Operating Income

The Utility projected net operating income (NOI) for the water and wastewater systems of \$252,465 and \$204,582, respectively. Based on the adjustments above, staff calculated an NOI of \$258,230 for water and \$199,863 for wastewater. The calculated NOI for the water and wastewater systems are shown in Schedule Nos. 3-A and 3-B, respectively.

O&M Expenses

North Lake proposed total O&M expenses of \$58,947 for water and \$58,947 for wastewater. The Utility calculated contractual services-billing expense of \$36,318 for both water and wastewater based on equivalent residential connections (ERCs) at 100 percent buildout. Staff has recalculated the expense based on ERCs at 80 percent buildout. As such, staff recommends decreasing expense by \$7,264 for water and wastewater. Based on this adjustment, staff recommends an O&M expense of \$51,683 ($\$58,947 - \$7,264$) for water and \$51,683 ($\$58,947 - \$7,264$) for wastewater.

Net Depreciation Expense

The Utility reflected depreciation expense, net of CIAC amortization, of \$107,104 for water and \$111,490 for wastewater. Staff does not have any adjustments to water depreciation expense. Based on staff's adjustments to wastewater rate base, a corresponding adjustment should be made to decrease net depreciation expense by \$7,210 for wastewater. As such, staff recommends a net depreciation expense of \$107,104 for water and \$104,280 ($\$111,490 - \$7,210$) for wastewater.

Amortization Expense

North Lake reflected amortization expense balances of \$255 for water and \$255 for wastewater to reflect amortization of organization costs. Staff does not have any adjustments. As such, staff recommends an amortization expense of \$255 for both water and wastewater.

Taxes Other than Income

In its filing, North Lake included taxes other than income (TOTI) expense of \$68,372 for water and \$52,497 for wastewater. North Lake's calculation of proposed property tax expense for each system was based on the Lake County millage rate from 2023. Staff recalculated the property tax expense for each system using the most recent millage rate and recommends an adjustment be made to increase property tax by \$7,776 for water and \$2,805 for wastewater. As such, staff recommends a total TOTI expense of \$76,444 for water and \$54,530 for wastewater.

Revenue Requirement

The Utility's projected revenues include O&M expenses, net depreciation expenses, taxes other than income, as well as a return on investment. As a limited liability company, staff notes that North Lake has no income tax expense. The Utility proposed revenue requirements for water and wastewater of \$487,143 and \$427,771, respectively. Staff recommends adjusted revenue requirements of \$493,716 for water and \$410,611 for wastewater to be used to set initial rates for

service. The calculation of North Lake's projected water and wastewater revenue requirements are shown on Schedule Nos. 3-A and 3-B, respectively. Staff's adjustments are shown on Schedule 3-C.

Rates and Rate Structure

North Lake's proposed rates are in accordance with Rule 25-30.033(2), F.A.C., which requires that a base facility charge (BFC) and usage rate structure, as defined in Rule 25-30.437(6), F.A.C., be utilized for metered service. The Utility's proposed rates were designed to generate the Utility's requested revenue requirements of \$487,143 for its water system and \$427,771 for its wastewater system.

Staff's recommended water rates on Schedule No. 4-A reflect staff's recommended revenue requirement of \$493,716 for the water system less projected miscellaneous revenues of \$3,375. The Utility projects an average residential consumption of approximately 9,125 gallons per month. The Utility proposed a residential rate structure consisting of a BFC and two-tier inclining blocks with rate blocks of 1) 0-7,000 gallons and 2) all usage in excess of 7,000 gallons per month. The Utility's proposed rate structure for the general service water customers consists of a BFC and uniform gallonage charge rate structure. The Utility proposed water rates to recover 50 percent of the water revenues through the BFC. It is Commission practice to recover no more than 40 percent of water revenues through the BFC, with the exception of a seasonal customer base. In this case, North Lake's customer base will be non-seasonal. However, in response to staff's second data request, the Utility indicated that it had no objection to a different allocation of the revenues through the BFC. Therefore, staff recommends that the water rates recover 40 percent of the water revenues through the BFC. Staff's recommended rate structure is consistent and reasonable with the Commission's methodology in determining the water rate structure.

Staff's recommended wastewater rates on Schedule No. 4-B reflect staff's recommended revenue requirement of \$410,611 for the wastewater system less projected miscellaneous revenues of \$3,375. The Utility's proposed wastewater rate structure consists of a BFC and uniform gallonage charge rate structure for its residential and general service customers. The residential wastewater rate includes a gallonage cap of 10,000 gallons. The Utility proposed recovering 50 percent of the revenues through the BFC. Staff believes the Utility's proposed wastewater rate structure is reasonable and consistent with the Commission's methodology in determining wastewater rate structures and rates.

Based on the above, staff's recommended water and wastewater rates, shown on Schedule Nos. 4-A and 4-B, are reasonable and should be approved. The approved rates should be effective for services rendered as of the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. The Utility should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding.

Conclusion

Staff's recommended water and wastewater rates, shown on Schedule Nos. 4-A and 4-B, are reasonable and should be approved. The overall cost of capital should be set at 8.42 percent. An ROE of 8.66 percent with a range of 100 basis points should also be approved. The approved

rates should be effective for services rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding.

Issue 3: Should North Lake's requested initial customer deposits be approved?

Recommendation: No. The appropriate initial customer deposits are \$178 for water and \$160 for wastewater service for the residential 5/8" x 3/4" meter size. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill. The approved customer deposits should be effective for service rendered on or after the stamped approval date on the tariff 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. (Bethea)

Staff Analysis: Rule 25-30.311, F.A.C., contains criteria for collecting, administering, and refunding customer deposits. Rule 25-30.311(1), F.A.C., requires that each company's tariff shall contain its specific criteria for determining the amount of initial deposits. The Utility requested initial customer deposits of \$175 for water and \$152 for wastewater for the residential 5/8" x 3/4" meter size and two times the average estimated monthly bill for all others. Customer deposits are designed to minimize the exposure of bad debt expense for the Utility and, ultimately, the general body of rate payers. In addition, collection of customer deposits is consistent with one of the fundamental principles of rate making, which ensures that the cost of providing service is recovered from the cost causer.

Rule 25-30.311(7), F.A.C., authorizes utilities to collect new or additional deposits from existing customers, not to exceed an amount equal to the average actual charge for water and/or wastewater service for two billing periods for the 12-month period immediately prior to the date of notice. The two billing periods reflect the lag time between the customer's usage and the Utility's collection of the revenues associated with that usage. Commission practice has been to set initial customer deposits equal to two months bills based on the average consumption for a 12-month period for each class of customers. Based on the billing determinants and average residential bill provided in the application, staff determined that the anticipated average residential usage will be approximately 9,125 gallons per month for both water and wastewater. Consequently, the average residential monthly bill will be approximately \$89.40 for water and \$79.74 for wastewater service, based on staff's recommended rates.

Based on the above, the appropriate initial customer deposits are \$178 for water and \$160 for wastewater service for the residential 5/8" x 3/4" meter size. The initial customer deposit 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 service rendered on or after the stamped approval date on the tariff 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 4: What are the appropriate service availability charges for North Lake?

Recommendation: The appropriate service availability charges are the Utility's requested plant capacity charge of \$2,000 per ERC for the water system and \$3,000 per ERC for the wastewater system. The recommended plant capacity charges should be based on 300 gallons per day (gpd) for water and 250 gpd for wastewater. The approved charges should be effective for connections made on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. The Utility should be required to charge the approved charges until authorized to change them by the Commission in a subsequent proceeding. (Bethea)

Staff Analysis: North Lake requested a plant capacity charge of \$2,000 per ERC for the Utility's water system and \$3,000 per ERC for the wastewater system. The Utility's proposed ERC is 300 gpd for water and 250 gpd for wastewater. The Utility's requested charges are in compliance with Rule 25-30.580, F.A.C., in that at design capacity the contribution in aid of construction (CIAC) will not be in excess of 75 percent, and will not be less than the percentage of facilities and plant represented by the distribution and collection systems.

Rule 25-30.580(1)(a), F.A.C., provides that the maximum amount of CIAC, net of amortization, should not exceed 75 percent of the total original cost, net of accumulated depreciation, of the Utility's facilities and plant when the facilities and plant are at their design capacity. The maximum guideline is designed to ensure that the Utility retains an investment in the system. Rule 25-30.580(1)(b), F.A.C., provides that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by the distribution and collection systems.

The Utility's proposed service availability policy states that the developer will install all infrastructure and the developer/customer will pay the applicable service availability charges. The Utility did not propose a main extension charge because the water distribution and wastewater collection lines are being donated by the developer. The service availability charges are discussed below.

Plant Capacity Charges

A plant capacity charge allows the Utility to recover each customer's pro rata share of the cost of treatment facilities and stay within the guidelines prescribed in Rule 25-30.580, F.A.C., which provides minimum and maximum guidelines for designing service availability charges. The Utility proposed plant capacity charges of \$2,000 for water and \$3,000 for wastewater result in contribution levels of 54 percent for water and 66 percent for wastewater. The contribution levels are within the guideline provided in the rule mentioned above and will allow North Lake to maintain an appropriate level of investment in its system.

Based on the above, the appropriate service availability charges are the Utility's proposed plant capacity charges of \$2,000 per ERC for the water system and \$3,000 per ERC for the wastewater system. The recommended plant capacity charges per ERC should be based on 300 gpd for water and 250 gpd for wastewater. The approved charges should be effective for connections made on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. The Utility

should be required to charge the approved charges until authorized to change them by the Commission in a subsequent proceeding.

Issue 5: Should the temporary meter deposit requested by North Lake be approved?

Recommendation: Yes. The Utility's requested temporary meter deposit for general service customers at actual cost pursuant to Rules 25-30.315 and 25-30.345, F.A.C., is reasonable and should be approved. The approved temporary meter deposit should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C. North Lake should be required to collect the approved deposit, which covers the anticipated costs of installing and removing facilities and materials for temporary service, until authorized to change it by the Commission in a subsequent proceeding. (Bethea)

Staff Analysis: North Lake requested a temporary meter deposit for general service customers consistent with Rules 25-30.315 and 25-30.345, F.A.C., which allows the Utility to charge an applicant a reasonable charge to defray the costs of installing and removing facilities and materials for temporary service. This deposit would be collected from commercial entities requesting a temporary meter for construction activities. Once the temporary meter service is terminated, North Lake will credit the customer with the reasonable salvage value of the service facilities and materials consistent with Rules 25-30.315 and 25-30.345, F.A.C.

Based on the above, the Utility's requested temporary meter deposit for general service customers at actual cost pursuant to Rules 25-30.315 and 25-30.345, F.A.C., is reasonable and should be approved. The approved deposit should be effective for service rendered on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. North Lake should be required to collect the approved deposit, which covers the anticipated costs of installing and removing facilities and materials for temporary service, until authorized to change it by the Commission in a subsequent proceeding.

Issue 6: Should North Lake's request to implement a backflow prevention assembly testing charge be approved?

Recommendation: Yes. The Utility's requested backflow prevention assembly testing charge for general service customers at actual cost should be approved. The approved charge should be effective for service rendered or connections made on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. North Lake should be required to charge the approved charge until authorized to change it by the Commission in a subsequent proceeding. (Bethea)

Staff Analysis: The Utility requested a backflow prevention assembly testing charge to recover the costs the Utility would incur for performing annual testing on behalf of non-compliant commercial customers. The basis for the Utility's request for a backflow prevention assembly testing charge is an agreement through a third party vendor. It is the responsibility of the customer to annually test their backflow prevention assembly. The Utility would only administer this charge if a general service customer fails to test their backflow prevention device in accordance with the Florida Department of Environmental Protection requirements. This charge would be imposed after a 30 day notice to the customer and would include an estimate of the amount that will be charged. This noticing period will provide the customer a final opportunity to come into compliance before North Lake performs the necessary testing on the customer's behalf. The Utility is requesting this charge at actual cost in order to pass on the amount it will incur from a contractor performing the necessary testing. Staff believes the Utility's requested charge is reasonable.

Based on the above, the Utility's requested backflow prevention assembly testing charge for general service customers at actual cost should be approved. The approved charge should be effective for service rendered or connections made on or after the stamped approval date on the tariff pursuant to Rule 25-30.475, F.A.C. North Lake should be required to charge the approved charge until authorized to change it by the Commission in a subsequent proceeding.

Issue 7: Should this docket be closed?

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

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

North Lake County Water & Sewer Company LLC

Lake County

Water and Wastewater Service Area

LEGAL DESCRIPTION:

(WATER AND SEWER UTILITY SERVICES)

A PARCEL OF LAND LYING IN SECTIONS 15 AND 22, TOWNSHIP 20 SOUTH, RANGE 25 EAST, LAKE COUNTY, FLORIDA;

BEING DESCRIBED AS FOLLOWS:

COMMENCE AT NORTH QUARTER CORNER OF SAID SECTION 22 FOR A POINT OF REFERENCE; THENCE RUN NORTH 89°14'57" WEST ALONG THE SOUTH LINE OF THAT CERTAIN QUIT CLAIM DEED, RECORDED IN OFFICIAL RECORDS BOOK 5263, PAGE 681, OF THE PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, 670.22 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 48 AND THE POINT OF BEGINNING; THENCE RUN THE FOLLOWING 3 COURSES ALONG SAID EASTERLY RIGHT-OF-WAY LINE: NORTH 23°24'43" WEST, 1,531.02 FEET; SOUTH 66°37'55" WEST, 16.97 FEET, NORTH 20°18'28" WEST, 226.54 FEET; THENCE DEPARTING SAID EAST RIGHT-OF-WAY LINE OF COUNTY ROAD 48, RUN THE FOLLOWING 3 COURSES ALONG THE EAST RIGHT-OF-WAY LINE OF LIME AVENUE: NORTH 20°34'23" WEST, 201.94 FEET; NORTH 20°00'00" WEST, 317.00 FEET; NORTH 19°50'21" WEST, 405.83 FEET TO THE NORTH LINE OF QUIT CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 4470, PAGE 2292, OF SAID PUBLIC RECORDS; THENCE RUN NORTH 69°59'13" EAST ALONG SAID NORTH LINE, 210.05 FEET TO THE EAST LINE OF SAID QUIT CLAIM DEED; THENCE RUN SOUTH 19°51'32" EAST, ALONG SAID EAST LINE, 406.34 FEET TO THE SOUTHWEST CORNER OF LOT 3, A.J. PHARES YALAHA SUBDIVISION AS REFERENCED ON THE MAP OF DRAKE POINT PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE 19 OF SAID PUBLIC RECORDS; THENCE RUN NORTH 70°07'30" EAST ALONG THE SOUTH LINE OF SAID LOT 3, A DISTANCE OF 622.19 FEET TO THE WEST LINE OF THE CERTAIN WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 4452, PAGE 673, OF SAID PUBLIC RECORDS; THENCE RUN NORTH 02°08'18" EAST ALONG SAID WEST LINE, 961.62 FEET TO A POINT ON THE 62.5 FOOT CONTOUR LINE, BEING THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION SAFE UPLAND LINE OF THE WATERS OF LAKE HARRIS; THENCE RUN ALONG SAID "SAFE UPLAND" LINE CONTOUR BEING APPROXIMATED BY THE FOLLOWING COURSES: SOUTH 48°13'31" EAST, 171.61 FEET; SOUTH 30°28'21" EAST, 198.50 FEET; SOUTH 89°28'36" EAST, 214.54 FEET; SOUTH 75°33'09" EAST, 163.02 FEET; SOUTH 64°37'20" EAST, 195.83 FEET; SOUTH 81°24'01" EAST, 185.82 FEET; SOUTH 83°21'55" EAST, 150.78 FEET; NORTH 82°35'47" EAST, 145.75 FEET; NORTH 88°37'02" EAST, 289.27 FEET; NORTH 82°48'31" EAST, 99.43 FEET; SOUTH 72°51'05" EAST, 124.28 FEET; SOUTH 49°04'35" EAST, 589.31 FEET; SOUTH 68°28'09" EAST, 696.95 FEET; SOUTH 83°52'42" EAST, 390.31 FEET; NORTH 79°30'03" EAST, 312.29 FEET; SOUTH 77°09'39" EAST, 405.31 FEET; SOUTH 64°24'04" EAST, 290.41 FEET; SOUTH 18°43'07" EAST, 72.17 FEET; SOUTH 32°23'54" WEST, 158.54 FEET; SOUTH 47°59'25" WEST, 306.08 FEET; SOUTH 34°28'28" WEST, 160.69 FEET; SOUTH 22°19'42" WEST, 170.42 FEET; SOUTH 02°47'59" EAST, 173.67 FEET; SOUTH 24°39'51" WEST, 379.39 FEET; SOUTH 20°53'09" WEST, 129.67 FEET; SOUTH 10°47'41" WEST, 262.36 FEET; SOUTH 04°51'48" WEST, 356.75 FEET; SOUTH 06°43'37" WEST, 125.96 FEET, POINT BEING 100.00 FEET EASTERLY OF THE NORTHEAST CORNER OF THE AFORESAID SECTION 22; THENCE RUN NORTH 89°32'11" WEST, 100.00 FEET TO THE NORTHEAST CORNER OF THE AFORESAID SECTION 22; THENCE RUN NORTH 89°32'11" WEST ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 22, A DISTANCE OF 1,350.44 FEET; THENCE DEPARTING SAID NORTH LINE, RUN SOUTH 40°37'42" WEST, 987.97 FEET TO THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST

QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE RUN SOUTH 01°02'44" WEST ALONG SAID EAST LINE, 578.78 FEET TO THE SOUTHEAST CORNER OF SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 22; THENCE RUN NORTH 89°13'56" WEST ALONG THE SOUTH LINE OF SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 22, A DISTANCE OF 47.47 FEET TO THE CENTERLINE OF A DITCH; THENCE RUN THE FOLLOWING 7 COURSES ALONG THE CENTERLINE OF SAID DITCH: SOUTH 31°25'16" WEST, 1.75 FEET; SOUTH 62°36'34" WEST, 98.66 FEET; SOUTH 34°07'05" WEST, 113.15 FEET; SOUTH 67°31'03" WEST, 41.43 FEET; SOUTH 72°42'59" WEST, 159.42 FEET; SOUTH 65°14'08" WEST, 143.37 FEET; SOUTH 76°24'55" WEST, 72.29 FEET TO A POINT ON THE AFORESAID EAST RIGHT-OF-WAY OF COUNTY ROAD 48, SAID POINT IS LYING ON A NON-TANGENT CURVE CONCAVE NORTHEASTERLY; THENCE RUN NORTHWESTERLY ALONG SAID NON-TANGENT CURVE HAVING A RADIUS OF 5,679.57 FEET, A CENTRAL ANGLE OF 03°34'40", AN ARC LENGTH OF 354.66 FEET, A CHORD LENGTH OF 354.60 FEET AND A CHORD BEARING OF NORTH 24°58'35" WEST TO A POINT; THENCE RUN NORTH 23°24'43" WEST NON-TANGENT TO SAID CURVE, 1,423.66 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL OF LAND LIES IN LAKE COUNTY, FLORIDA, AND CONTAINS 294.311 ACRES MORE OR LESS.

FLORIDA PUBLIC SERVICE COMMISSION

Authorizes

North Lake County Water & Sewer Company LLC

pursuant to

Certificate Number 683-W

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

Order Number
*

Date Issued
*

Docket Number
20240023-WS

Filing Type
Original Certificate

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

FLORIDA PUBLIC SERVICE COMMISSION

Authorizes

North Lake County Water & Sewer Company LLC

pursuant to

Certificate Number 583-S

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

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	20240023-WS	Original Certificate

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

North Lake County Water & Sewer Company LLC		Schedule No. 1-A	
Schedule of Water Rate Base		20240023-WS	
80% Design Capacity			
Description	Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year
1 Plant in Service	\$6,597,287	\$356,000	\$6,953,287
2 Land and Land Rights	425,000	0	425,000
3 Accumulated Depreciation	(874,656)	(44,353)	(919,009)
4 CIAC	(3,431,203)	(356,000)	(3,787,203)
5 Amortization of CIAC	343,815	44,100	387,915
6 Working Capital Allowance	<u>7,368</u>	<u>(908)</u>	<u>6,460</u>
7 Rate Base	<u>\$3,067,611</u>	<u>(\$1,161)</u>	<u>\$3,066,450</u>

North Lake County Water & Sewer Company LLC		Schedule No. 1-B		
Schedule of Wastewater Rate Base		20240023-WS		
80% Design Capacity				
Description		Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year
1	Plant in Service	\$6,770,776	\$0	\$6,770,776
2	Land and Land Rights	425,000	0	425,000
3	Accumulated Depreciation	(1,056,162)	4,118	(1,052,044)
4	CIAC	(4,127,925)	(143,750)	(4,271,675)
5	Amortization of CIAC	466,762	28,076	494,838
6	Working Capital Allowance	<u>7,368</u>	<u>(908)</u>	<u>6,460</u>
7	Rate Base	<u>\$2,485,819</u>	<u>(\$112,465)</u>	<u>\$2,373,355</u>

North Lake County Water & Sewer Company LLC		Schedule No. 1-C	
Adjustments to Rate Base		20240023-WS	
80% Design Capacity			
Explanation		Water	Wastewater
Plant In Service			
To reflect appropriate amount for meters.		<u>\$356,000</u>	<u>\$0</u>
Accumulated Depreciation			
To reflect appropriate amount for meters.		(\$44,100)	\$0
To reflect appropriate calculation of accumulated depreciation.		<u>(253)</u>	<u>4,118</u>
Total		<u>(\$44,353)</u>	<u>\$4,118</u>
CIAC			
To reflect appropriate level of CIAC.		<u>(\$356,000)</u>	<u>(\$143,750)</u>
Accumulated Amortization of CIAC			
To reflect appropriate level of accumulated amortization of CIAC.		<u>\$44,100</u>	<u>\$28,076</u>
Working Capital		<u>(\$908)</u>	<u>(\$908)</u>

North Lake County Water & Sewer Company LLC							Schedule No. 2		
Capital Structure-13-Month Average							20240023-WS		
80% Design Capacity									
Description	Total Capital	Specific Adjustments	Subtotal Adjusted Capital	Pro rata Adjustments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost	
Per Staff									
1	Long-term Debt	\$0	\$0	\$0	\$0	\$0	0.00%	0.00%	0.00%
2	Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%
3	Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
4	Common Equity	5,281,481	0	5,281,481	(36,196)	5,245,285	96.42%	8.66%	8.35%
5	Customer Deposits	271,950	(77,430)	194,520	0	194,520	3.58%	2.01%	0.07%
6	Tax Credits-Zero Cost	0	0	0	0	0	0.00%	0.00%	0.00%
7	Deferred Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>
8	Total Capital	<u>\$5,553,431</u>	<u>(\$77,430)</u>	<u>\$5,476,001</u>	<u>(\$36,196)</u>	<u>\$5,439,805</u>	<u>100.00%</u>		<u>8.42%</u>
							LOW	HIGH	
RETURN ON EQUITY							<u>7.66%</u>	<u>9.66%</u>	
OVERALL RATE OF RETURN							<u>7.46%</u>	<u>9.39%</u>	

North Lake County Water & Sewer Company LLC					Schedule No. 3-A	
Statement of Water Operations					20240023-WS	
80% of Design Capacity						
Description	Proposed Per Utility	Staff Adjustments	Staff Adjusted	Revenue Increase	Revenue Requirement	
1	Operating Revenues:	<u>\$487,143</u>	<u>\$0</u>	<u>\$487,143</u>	<u>\$6,573</u>	<u>\$493,716</u>
	Operating Expenses					
2	Operation & Maintenance	\$58,947	(7,264)	\$51,683		\$51,683
3	Depreciation	107,104	0	107,104		107,104
4	Amortization	255	0	255		255
5	Taxes Other Than Income	68,372	7,776	76,148	296	76,444
6	Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7	Total Operating Expense	<u>234,678</u>	<u>512</u>	<u>235,190</u>	<u>296</u>	<u>235,486</u>
8	Operating Income	<u>\$252,465</u>	<u>(\$512)</u>	<u>\$251,953</u>	<u>\$6,277</u>	<u>\$258,230</u>
9	Rate Base	<u>\$3,067,611</u>		<u>\$3,066,450</u>		<u>\$3,066,450</u>
10	Rate of Return	<u>8.23%</u>		<u>8.22%</u>		<u>8.42%</u>

North Lake County Water & Sewer Company LLC					Schedule No. 3-B	
Statement of Wastewater Operations					20240023-WS	
80% of Design Capacity						
	Description	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year	Revenue Increase	Revenue Requirement
1	Operating Revenues:	<u>\$427,771</u>	<u>\$0</u>	<u>\$427,771</u>	<u>(\$17,160)</u>	<u>\$410,611</u>
	Operating Expenses					
2	Operation & Maintenance	\$58,947	(\$7,264)	\$51,683		\$51,683
3	Depreciation	111,490	(7,210)	104,280		104,280
4	Amortization	255	0	255		255
5	Taxes Other Than Income	52,497	2,805	55,302	(772)	54,530
6	Total Operating Expense	<u>223,189</u>	<u>(11,669)</u>	<u>211,520</u>	<u>(772)</u>	<u>210,748</u>
7	Operating Income	<u>\$204,582</u>	<u>\$11,669</u>	<u>\$216,251</u>	<u>(\$16,388)</u>	<u>\$199,863</u>
8	Rate Base	<u>\$2,485,819</u>		<u>\$2,373,355</u>		<u>\$2,373,355</u>
9	Rate of Return	<u>8.23%</u>		<u>9.11%</u>		<u>8.42%</u>

North Lake County Water & Sewer Company LLC		Schedule No. 3-C	
Adjustments to Operating Income		20240023-WS	
80% Design Capacity			
Explanation	Water	Wastewater	
Operation and Maintenance Expense			
To reflect correct amount of contractual Services - Billing expense.	<u>(\$7,264)</u>	<u>(\$7,264)</u>	
Depreciation Expense - Net			
To reflect correct calculation of depreciate expense.	\$0	(\$971)	
To reflect appropriate depreciate expense for meters.	16,000	\$0	
To reflect appropriate accumulated amortization for meters & lift stations.	<u>(16,000)</u>	<u>(6,239)</u>	
Total	<u>(\$0)</u>	<u>(\$7,210)</u>	
Amortization-Other Expense			
To reclassify amortization expense to depreciation expense.	<u>\$0</u>	<u>\$0</u>	
Taxes Other Than Income			
To reflect the most current millage rate for property tax calculation	<u>\$7,776</u>	<u>\$2,805</u>	

NORTH LAKE COUNTY WATER & SEWER COMPANY, LLC	SCHEDULE NO. 4-A	
MONTHLY WATER RATES	DOCKET NO. 20240023-WS	
	UTILITY REQUESTED RATES	STAFF RECOMMENDED RATES
<u>Residential Service and General Service</u>		
Base Facility Charge by Meter Size		
5/8" x 3/4"	\$43.82	\$35.36
3/4"	\$65.73	\$53.04
1"	\$109.55	\$88.40
1-1/2"	\$219.10	\$176.80
2"	\$350.56	\$282.88
3" Turbine	\$766.85	\$618.80
Charge per 1,000 gallons - Residential Service		
0- 7,000 gallons	\$4.59	\$5.59
Over 7,000 gallons	\$5.74	\$6.99
Charge per 1,000 gallons - General Service		
	\$4.77	\$5.81
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>		
3,000 Gallons	\$57.59	\$52.13
6,000 Gallons	\$71.36	\$68.90
9,000 Gallons	\$87.43	\$88.47

NORTH LAKE COUNTY WATER & SEWER COMPANY, LLC	SCHEDULE NO. 4-B	
MONTHLY WASTEWATER RATES	DOCKET NO. 20240023-WS	
	UTILITY REQUESTED RATES	STAFF RECOMMENDED RATES
<u>Residential Service</u>		
Base Facility Charge- All Meter Sizes	\$38.44	\$36.77
Charge per 1,000 gallons- Residential 10,000 gallon cap	\$4.91	\$4.71
<u>General Service</u>		
Base Facility Charge by Meter Size		
5/8" x 3/4"	\$38.44	\$36.77
3/4"	\$57.66	\$55.15
1"	\$96.10	\$91.93
1-1/2" Turbine	\$192.21	\$183.85
2" Turbine	\$307.53	\$294.16
3" Turbine	\$672.73	\$643.48
Charge per 1,000 gallons - General Service	\$5.89	\$5.65
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>		
3,000 Gallons	\$56.11	\$50.90
6,000 Gallons	\$73.78	\$65.03
10,000 Gallons	\$91.45	\$83.87

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: July 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Wu, Galloway)
Office of the General Counsel (Brownless)

GP
JSC

RE: Docket No. 20240060-GU – Petition for approval to establish new regulatory subaccounts, amortization rates, and reclassification of associated investment and reserve balances, by Florida Public Utilities Company.

AGENDA: 08/06/24 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On April 11, 2024, Florida Public Utilities Company (FPUC or Company) filed a Petition for approval to establish new regulatory subaccounts, amortization rates, and reclassification of associated investment and reserve balances (Petition). The Company's request is in accordance with Rules 25-7.045(2)(a), Florida Administrative Code (F.A.C.), which provides that "[n]o utility shall change any existing depreciation rate or initiate any new depreciation rate without prior Commission approval;" and Rule 25-7.045(3)(b), F.A.C., which requires that: "[u]pon establishing a new account or subaccount classification, each utility shall request Commission approval of a depreciation rate for the new plant category."

Pursuant to Rule 25-7.045(3)(a), F.A.C., gas utilities are required to maintain depreciation rates and accumulated depreciation reserves in accounts or subaccounts in accordance with the Uniform System of Accounts (USOA) for Public Utilities and Licensees, as found in the Code of Federal Regulations,¹ which is incorporated by reference in Rule 25-7.014(1), F.A.C.

All of FPUC's capitalized software is currently recorded in amortizable Account 3914 – Computer Software with a 10-year amortization period, which is a subaccount of Account 391 – Office Furniture and Equipment. FPUC states that Account 3914 includes both general purpose and customized application software. After a review of its various software, the Company determined that the more appropriate classification of certain customized software investments that are currently recorded in Account 3914 is a classification as intangible plant. With this determination, FPUC filed the instant Petition for approval to establish a new Account 3031 – Miscellaneous Intangible Plant - 15 Years, as a subaccount for FERC Account 3030 – Miscellaneous Intangibles and, as implied in the account name, proposes using a 15-year amortization period for the new account.

The Company requests that the January 1, 2024 investment and reserve balances associated with the existing software customized for the sole use of FPUC's operations be reclassified from Account 3914 to Account 3031, and the associated net plant balance be amortized over 15 years. FPUC has proposed an effective date of January 1, 2024, for commencement of the new subaccount, amortization periods, and transfers of investment and reserve from Accounts 3914 to 3031. Further, FPUC petitioned to establish a new Account 3032 – Miscellaneous Intangible Plant with a 20-year amortization period, also as a subaccount of FERC Account 3030, for recording the Company's new software applications, including the Customer Information and Billing System and the Enterprise Resource Planning system. FPUC has also requested a January 1, 2024 effective date for the new Account 3032.

The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

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

Discussion of Issues

Issue 1: Should FPUC’s request to establish new subaccounts with applicable amortization rates for certain existing customized software and for specified new customer billing and business management software be approved, and if so, what are the appropriate account classifications and the respective associated amortization rates?

Recommendation: Yes. Staff recommends approval of FPUC’s petition to establish two subaccounts: Account 3031 – Miscellaneous Intangible Plant - 15 Years, with an annual amortization rate of 6.7 percent resulting from the 15-year amortization, for reclassifying certain existing customized software, and Account 3032 – Miscellaneous Intangible Plant – 20 Years, with an annual amortization rate of 5.0 percent resulting from the 20-year amortization period, for recording specified new customer billing and business management software. (Wu)

Staff Analysis: Currently, FPUC records its capitalized software in the amortizable Account 3914 – Computer Software, which is a subaccount of Account 391 – Office Furniture and Equipment, with an approved 10-year amortization period (resulting in an annual amortization rate of 10.0 percent). This subaccount includes both general purpose and customized application software. After a review of its various types of software systems/platforms, FPUC determined that it would be more appropriate to reclassify certain highly customized software systems/platforms as intangible plant and record them in a new subaccount for FERC Account 3030 - Miscellaneous Intangibles.² Hence, FPUC has petitioned the Commission for approval to establish a new Account 3031 – Miscellaneous Intangible Plant - 15 Years and to change the existing 10-year amortization period to a 15-year amortization period (or an annual amortization rate of 6.7 percent) for the reclassified customized software systems/platforms.

There are four types of customized software systems/platforms that FPUC intends to reclassify as intangible plant and include in Account 3031:

- (1) The ArcGIS Enterprise Geographic Information System (“GIS”), which is a spatial system that manages and maps Florida’s natural gas assets (i.e., pipeline, valves, stations, etc.) along with all relative data. It also organizes and shares GIS data within the Company. This system has been in-service for about 10 years.
- (2) The Convergence Gas Tracking System (“GTS”), which is a customized cloud-based software application used to manage the Company’s natural gas transportation and customer choice programs. Placed in-service in 2020, this system provides enhanced tracking, accounting, and billing features for natural gas transportation and customer choice programs and streamlines business processes with improved operational communications.

² The Code of Federal Regulations, Title 18, Subchapter C, Part 101, Account 303 regarding Miscellaneous Intangible Plant states “[this account] shall include the cost of patent rights, licenses, privileges, and other intangible property necessary or valuable in the conduct of utility operations and not specifically chargeable to any other account.”

- (3) PowerPlan, which is a cloud-based fixed asset solution placed in service in 2020. It houses FPUC's Capital Project Management that includes capital month end closing, Asset Depreciation, Lease Asset Management, Property Tax, and Tax Provisions.
- (4) Utilities International ("UI"), which is the budgeting and forecasting solution that was implemented in 2016 and is still in service.

FPUC explained that these software systems/platforms were purchased, then significantly modified by its parent company, Chesapeake Utilities Corporation (CUC), for the sole use of CUC's business entities to conduct and streamline utility operations. Each business unit is allocated a share of the total software costs.³ Staff agrees with the Company that, given the amount of internal development involved with these software systems/platforms and their intended CUC-specific applications, it is appropriate to reclassify them as intangible assets and record them in a new Account 3031 – Miscellaneous Intangible Plant.

As of December 31, 2023, FPUC's respective amount of plant investment and amortization reserve of the Account 3914 was \$7,029,521 and \$3,347,879.⁴ Of these amounts, FPUC's total plant and reserve balance associated with the aforementioned four types of customized software systems/platforms was \$2,657,582 and \$745,627, respectively.⁵ FPUC requests the reclassification of these customized software-related plant and reserve amounts from Account 3914 to Account 3031 and amortization of the unrecovered balance over 15 years, effective January 1, 2024, should the establishment of the new account be approved.

FPUC explained that it proposed a 15-year amortization period (or an annual amortization rate of 6.7 percent) based on the age and/or years in service of the existing software that will be recorded in Account 3031.⁶ The Company also pointed out that the life span of these software-related investments has normally exceeded the existing 10-year amortization period established for Account 3914 - Software. Staff concurs with FPUC that using a 15-year amortization period will better align the investments with their expected benefit period, given the current age of this software and how long the previously installed software was in service. Staff notices that FPUC's proposed amortization period/rate is in line with the Commission's prior orders which authorize a 15-year amortization period for miscellaneous intangible plant accounts.⁷

In its Petition, FPUC further claimed that using a 15-year, instead of a 10-year, amortization period for these software systems/platforms will provide the benefit of decreasing the revenue

³ Document No. 04345-2024, FPUC's Response to Staff's Second Data Request, No. 1.

⁴ Petition, paragraph (4).

⁵ Petition, paragraphs (8).

⁶ Document No. 04170-2024, FPUC's Response to Staff's First Data Request, No. 2.b.

⁷ Order Nos. PSC-2023-0384-PAA-EI, issued December 21, 2023, in Docket No. 20230079-EI, *In re: Petition for approval of 2023 depreciation study by Florida Public Utilities Company*; PSC-2021-0202A-AS-EI, issued June 28, 2021, in Docket No. 20210026-EI, *In re: Petition for limited proceeding to approve 2021 settlement agreement, including general base rate increases, by Duke Energy Florida, LLC.*; PSC-2021-0423-S-EI, issued November 10, 2021, in Docket No. 20200264, *In re: Petition for approval of 2020 depreciation and dismantlement study and capital recovery schedules, by Tampa Electric Company.*

requirement when the Company’s base rates are next set.⁸ The associated annual amortization expenses for these investments will decrease by almost \$88,000, as reflected in Table 1 below:

Plant Investment (\$)	Current			Proposed			Difference
	Account	Amortization Rate (%)	Annual Expense (\$)	Account	Amortization Rate (%)	Annual Expense (\$)	Change in Expense (\$)
(1)	(2)	(3)	(4)=(1)*(3)	(5)	(6)	(7)=(1)*(6)	(8)=(7)-(4)
2,657,582	3914 - Software	10.0	265,758	3031-Intangibles	6.7	178,058	(87,700)

Data Source: Petition, paragraph (9).

In its Petition, FPUC acknowledged that its parent company, CUC, is in the process of consolidating the various customer billing and management system platforms of its divisions in Florida, Delaware, and Maryland into one platform.⁹ Initially, FPUC indicated that the Customer Information and Billing System (CIS) and Enterprise Resource Planning system (ERP) are expected to be operational in 2025 and 2026, respectively. However, the Company updated staff that CIS is now scheduled to go live in 2024.¹⁰

FPUC explained the potential functions and advantages of the CIS and ERP, including the fact that both of them are cloud-based and will continuously be updated and maintained:¹¹

CIS will be capable of providing enhanced accounting tools, cross-functional communication, data tracking and analyses, and other business processes in the areas of customer service, billing and information, financial performance, supply chain/inventory, human resources, and asset management. Additionally, it will provide a more flexible platform for enhancing the customer experience with a new set of customer service and communication tools.

ERP is a type of business management software that includes procurement, cash management, and the general ledger in an integrated system. [Its benefits] include improved reporting; increased productivity, efficiency, and integration of information; faster responses to inquiries and better customer satisfaction; standardization and centralization of data that is secure and reliable; reduced processing time; better decision making and higher return on investment; and better communication and increased sharing of information across different departments.

The estimate of FPUC’s portion of the costs associated with these two new software systems is approximately \$20 million. The allocations of the CIS and ERP-related costs will be based on the number of customers and a multi-factors Distrigas allocation method, respectively.¹²

⁸ Petition, paragraphs (9).

⁹ Petition, paragraphs (11).

¹⁰ Document No. 04170-2024, FPUC’s Response to Staff’s First Data Request, No. 1.b.

¹¹ Petition, paragraphs (5).

To record the plant investment associated with the CIS and ERP, FPUC has requested to establish a new subaccount of FERC Account 3030 – Miscellaneous Intangibles, Account 3032 – Miscellaneous Intangibles; and proposed a 20-year amortization period resulting in an annual amortization rate of 5.0 percent. FPUC’s existing software systems being replaced by the CIS and ERP have been in service for more than 20 years, which indicates that these types of software investments are likely to have a much longer useful period of service.¹³

Staffs believes that FPUC’s proposed Account 3032 with a 20-year amortization period (amortization rate of 5.0 percent) is reasonable. This plant asset classification and the associated amortization rate are consistent with the Commission’s prior orders.¹⁴

Conclusion

For the reasons outlined in this analysis, staff recommends approval of FPUC’s petition for establishing two new subaccounts for FERC Account 3030 – Miscellaneous Intangibles: Account 3031 – Miscellaneous Intangible Plant - 15 Years, with a 15-year amortization period (annual amortization rate of 6.7 percent), and Account 3032 – Miscellaneous Intangible Plant - 20 Years, with a 20-year amortization period (annual amortization rate of 0.5 percent). Further, staff recommends approval of FPUC’s request to reclassify its customized software systems/platforms-related plant and reserve, in the amounts of \$2,657,582 and \$745,627, respectively, from Account 3914 to the new Account 3031.

¹² Details of the method is provided in Document No. 04345-2024, FPUC’s Response to Staff’s Second Data Request, No. 2.a.

¹³ Document No. 04345-2024, FPUC’s Response to Staff’s Second Data Request, No.3.b.

¹⁴ Order No. PSC-2023-0384-PAA-EI; and Order No. PSC-2020-0489-PAA-GU, issued December 11, 2020, in Docket No. 20200191-GU, *In re: Petition for approval of amortization rate for Starnik customer information system and other software accounting adjustments, by Florida City Gas.*

Issue 2: If the Commission approves staff's recommendation in Issue 1, what is the appropriate respective implementation date for the new Accounts 3031 and 3032, as well as the reclassification of FPUC's customized software from Account 3941 to Account 3031?

Recommendation: Staff recommends January 1, 2024, as the effective date for the new Accounts 3031 and 3032, as well as the reclassification of the customized software from Account 3914 to new Account 3031. (Wu)

Staff Analysis: Depreciation and/or Amortization is the recovery of invested capital representing equipment that is providing service to the public. This recovery is designed to take place over the related period of service to the public, which begins with the equipment's in-service date.

If approved in Issue 1, FPUC's customized software systems/platforms that are currently booked in Account 3914, a subaccount of Account 391 – Office Furniture and Equipment, would be reclassified to new Account 3031 – Miscellaneous Intangible, with a 15-year amortization period. Also, based on such approval, the unrecovered balance of these systems/platforms would take place in Account 3031. FPUC proposed January 1, 2024 as the effective date for the new Account 3031 and the reclassification of the customized software from Account 3941 to Account 3031. Staff believes that the Company's proposal is appropriate as it is in line with the purpose of the amortization.

If approved in Issue 1, FPUC's new software systems CIS and ERP would be recorded in new Account 3032 – Miscellaneous Intangible, with a 20-year amortization period. FPUC indicated that CIS and ERP will be placed in-service in 2024 and 2026, respectively.¹⁵ The Company also stated that it had incurred \$7.8 Million in costs related to the CIS project, which are currently reflected on CUC's Account 1070 - Construction Work in Progress, and no costs have been incurred for ERP to date.¹⁶ To promote a smooth and efficient accounting process, staff recommends January 1, 2024, as the effective date for the new Account 3032, so that the CIS and ERP software-related plant can be appropriately recorded and amortized after these plant items are placed in-service.

¹⁵ Document 04170-02024, FPUC's Response to Staff's First Data Request, No. 1.b.

¹⁶ Document 04345-2024, FPUC's Response to Staff's Second Data Request, No. 2.b.

Issue 3: Should this docket be closed?

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

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

Item 6

State of Florida



Public Service Commission

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

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

DATE: July 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Hampson) *EJD*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20240084-EI – Petition for approval of special contract with Agency for Persons with Disabilities for upgrading the electric distribution facilities at the Sunland Center in Marianna, Florida, by Florida Public Utilities Company.

AGENDA: 08/06/24 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On May 10, 2024, Florida Public Utilities Company (FPUC) filed a petition for approval of a Special Contract with the Agency for Persons with Disabilities (Agency). The petition was filed pursuant to Rule 25-9.034, Florida Administrative Code. The Agency for Persons with Disability is an agency of the State of Florida that is tasked with serving the needs of Floridians with developmental disabilities. FPUC provides service to the Agency as a General Service Large Demand at the Sunland Center in Marianna, Florida. The Sunland Center is a developmental disability center operated by the Agency for people who need structured care 24 hours a day.

In early 2023, the Agency notified FPUC that it had received a grant from the federal government of approximately \$2 million for the upgrade and storm hardening of Sunland Center's existing 12.47 kV distribution system. As a primary metered customer, the 12.47 kV

distribution infrastructure behind the meter is the responsibility of the Agency to operate, maintain, and upgrade. FPUC worked with a third-party engineering firm, Enercon Services Inc. (Enercon), to develop cost estimates to storm harden the Agency's distribution system. The Enercon report was included as Attachment B to the petition.

After reviewing the report, FPUC and the Agency negotiated a Special Contract that would utilize the grant funds to compensate FPUC's work on the Sunland Center's distribution facilities, including completion of the necessary engineering designs and the purchase of materials. The Special Contract contemplates that FPUC, with the assistance of third-party contractors, would remove as much of the overhead distribution system as possible without impacting the existing overhead telephone and communications equipment and would replace it with new overhead facilities that meet National Electric Safety Code Storm Hardening Standards. FPUC would also construct an underground electric distribution system in certain areas consisting of primary conductors/conduit, pad mounted transformers and switches, secondary conductors/conduit, as well as service conductors/conduit. The system would utilize primary overhead metering equipment, which would be designated as the point of delivery and meter all energy used at Sunland Center. The Special Contract contemplates that work would be completed by mid-year 2026.

On June 6, 2024, Commission staff held a phone conference with FPUC to discuss the petition. On June 10, 2024, staff issued a data request, to which responses were received on June 24, 2024.¹ The proposed, unexecuted Special Contract is included in this recommendation as Attachment A. The Commission has jurisdiction over this matter pursuant to Section 366.05 Florida Statutes (F.S.).

¹ FPUC's Responses to Staff's First Data Request, DN 06861-2024.

Discussion of Issues

Issue 1: Should the Commission approve the proposed Special Contract between FPUC and the Agency for Persons with Disabilities?

Recommendation: Yes, the Commission should approve the proposed Special Contract between FPUC and the Agency for Persons with Disabilities. If approved, FPUC should record all costs and revenues associated with improvements behind the meter of Sunland Center as below-the-line. Furthermore, FPUC should file the executed Special Contract with the Commission, if approved. (Hampson)

Staff Analysis: Based on the analysis and cost estimates completed by Enercon, FPUC and the Agency negotiated a Special Contract to utilize the grant funds to complete the storm hardening of Sunland Center’s distribution facilities. In Paragraph 10 of the Petition, FPUC argues that the Enercon report demonstrated that Sunland Center’s facilities need a large-scale rebuild to prevent reliability issues and improve the safety and efficiency of the facilities, due to natural degradation and the impacts of Hurricane Michael in 2018. FPUC further states that a failure in the Sunland Center’s facilities could potentially adversely impact service to other FPUC customers in the surrounding area, due to the interconnected nature of the facilities and FPUC’s distribution system.

Beginning on Page 13, Attachment I to the proposed Special Contract defines the services to be provided by FPUC. Subsection B.2 of Attachment I states that FPUC would “construct, own, and operate an underground electric distribution system within the boundaries of Sunland Center.” In response to staff’s first data request, FPUC clarified it would own certain facilities behind-the-meter and further explained that behind-the-meter facilities would not be included in rate base in the next rate case.² FPUC also stated that the costs and revenues associated with the project (including FPUC’s labor, third-party contracts, and capital assets) would not be recorded on the regulated books of FPUC and, therefore, the project would have no effect on FPUC’s ratepayers.

Conclusion

Based on the petition and the information provided, staff believes that the Commission should approve the proposed Special Contract between FPUC and the Agency for Persons with Disabilities. If approved, FPUC should record all costs and revenues associated with improvements behind the meter of Sunland Center as below-the-line. Furthermore, FPUC should file the executed Special Contract with the Commission, if approved.

² FPUC’s Responses to Staff’s First Data Request, Response No. 4

Issue 2: Should this docket be closed?

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

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



Contract No. LCY04
State Project No. 22FDM1020

Client Non-Client

FLORIDA AGENCY FOR PERSONS WITH DISABILITIES STANDARD CONTRACT

THIS CONTRACT is entered into between the Florida Agency for Persons with Disabilities, hereinafter referred to as the "Agency," and Florida Public Utilities Company hereinafter referred to as the "Utility Agency/Owner (UAO)." The Agency and UAO agree as follows:

1. Contract Document

This Contract and its attachments and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties, and such documents shall collectively constitute and be referred to as the "Contract."

2. Witnesseth

- a. The UAO is the owner of electric utility facilities for the distribution of electric energy in Marianna, Florida and desires to sell electric energy.
- b. The Agency is currently engaged in the repair and upgrade of electric utilities facilities located at the Sunland Center, located in Marianna, Florida. The Agency currently purchases electric energy from the UAO under the formerly approved rate GSLD schedule.

3. Effective and Ending Dates

This Contract shall begin on, 04/01/2024 or on the date on which the Contract has been signed by the last party required to sign it, whichever is later. It shall end at midnight, local time at 11.59 PM, Florida, on 06/30/2026.

4. State of Florida Law

This Contract is executed and entered into in the State of Florida, and all claims, controversies and causes of action arising out of or relating to this Contract shall be construed, performed and enforced in all respects in accordance with Florida law, without regard to Florida provisions for conflict of laws that would result in the application of the laws of a different jurisdiction. Courts of competent jurisdiction in Florida shall have exclusive jurisdiction in any action regarding this Contract and venue shall be as provided in PUR 1000 (as defined in Section 19).

5. Contract Amount

The Agency shall pay for contracted services according to the terms and conditions of this Contract in an amount not to exceed \$2,085,000.00 or the rate schedule, subject to the availability of funds and satisfactory performance of all terms and conditions by the UAO. The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. Any costs or services paid for under any other contract or from any other source are not eligible for payment under this Contract.

6. Monitoring by the Agency

The UAO shall permit all persons who are duly authorized by the Agency to inspect and copy any records, papers, documents, facilities, goods and services of the UAO that are relevant to this Contract, and to interview any clients, employees and subcontractor employees of the UAO to assure the Agency of the satisfactory performance of the terms and conditions of this Contract. Following such review, the Agency will deliver to the UAO a written report of its findings, and may direct the development by the UAO of a corrective action plan. The UAO hereby agrees to timely correct all deficiencies identified in the corrective action plan. This provision will not limit the Agency's termination rights under Section 27.d.

7. Indemnification

- a. The UAO shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and the Agency, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to any alleged act or omission by the UAO, its agents, employees, partners, or subcontractors alleged to be caused in whole or in part by UAO, its agents, employees, partners, or subcontractors, provided, however, that the UAO shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Agency.
- b. The UAO shall fully indemnify, defend, and hold harmless the State and Agency from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to Agency's misuse or modification of UAO's products or a Agency's operation or use of UAO's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the UAO's opinion is likely to become the subject of such a suit, the UAO may at its sole expense procure for the Agency the right to continue using the product or to modify it to become non-infringing. If the UAO is not reasonably able to modify or otherwise secure the Agency the right to continue using the product, the UAO shall, without limiting the Agency's remedies at law for breach or nonperformance, remove the product and refund the Agency the amounts paid in excess of a reasonable rental for past use. The Agency shall not be liable for any royalties. The UAO's indemnification for violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right shall encompass all such items used or accessed by the UAO, its officers, agents or subcontractors in the performance of this Contract or delivered to the Agency for the use of the Agency, its employees, agents or contractors.
- c. The UAO shall protect, defend, and indemnify, including attorneys' fees and costs, the Agency for any and all claims and litigation (including litigation initiated by the Agency) arising from or relating to UAO's claim that a document contains proprietary or trade secret information that is exempt from disclosure or the scope of the UAO's redaction, as provided for under Section 34.
- d. The UAO shall not be liable for any cost, expense, or compromise incurred or made by the Agency in any legal action without the UAO's prior written consent, which shall not be unreasonably withheld. The UAO's inability to evaluate liability or its evaluation of liability shall not excuse its duty to defend and indemnify after receipt of notice. Only an adjudication or judgment after the highest appeal is exhausted finding the Agency negligent shall excuse the UAO of performance under this provision, in which case the Agency shall have no obligation to reimburse the UAO for the cost of its defense. If the UAO is an agency or subdivision of the State, its obligation to indemnify, defend and hold harmless the Agency shall be to the extent permitted by section 768.28, F.S. or other applicable law, and without waiving the limits of sovereign immunity.
- e. No provision in this Contract shall require the Agency to hold harmless or indemnify the UAO, insure or assume liability for the UAO's negligence, waive the Agency's sovereign immunity under the laws of Florida, or otherwise impose liability on the Agency for which it would not otherwise be responsible.

8. Insurance

Unless the UAO is a state agency or subdivision as defined by subsection 768.28(2), F.S., the UAO shall maintain continuous adequate liability insurance coverage during the existence of this Contract and during any renewal(s) and/or extension(s). By execution of this Contract, the UAO accepts full responsibility for identifying and determining the type(s) and extent of liability insurance necessary to provide reasonable financial protections for the UAO and the clients to be served under this Contract. The limits of coverage under each policy maintained by the UAO do not limit the UAO's liability and obligations under this Contract. Upon the execution of this Contract, the UAO shall furnish the Agency written verification supporting both the determination and existence of such insurance coverage. A current certificate of insurance, or such other documentation acceptable to the Agency, evidencing the type and extent of all insurance obtained pursuant to this Section 8 shall at all times be maintained by the UAO, and the UAO shall deliver a copy of such proof of insurance and any renewal or replacement thereof to the Agency. The UAO shall cause the Agency to be

named as a Certificate Holder under each policy of liability insurance maintained by the UAO pursuant to this Contract, unless the Agency waives in writing this requirement. Such coverage may be provided by a self-insurance program established and operating under the laws of the State of Florida. The Agency reserves the right to require additional insurance as specified in this Contract.

9. Public Records (Section 119.0701, F.S.)

- a. The UAO shall keep and maintain public records required by the Agency to perform the services specified in this Contract.
- b. Upon request from the Agency's Custodian of Public Records, the UAO shall provide the Agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- c. The UAO shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the UAO does not transfer the records to the Agency.
- d. Upon completion of the Contract, the UAO shall transfer, at no cost, to the Agency all public records in possession of the UAO or keep and maintain public records required by the Agency to perform the service. If the UAO transfers all public records to the Agency upon completion of the Contract, the UAO shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the UAO keeps and maintains public records upon completion of the Contract, the UAO shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Agency, upon request from the Agency's Custodian of Public Records, in a format that is compatible with the information technology systems of the Agency.
- e. A request to inspect or copy public records relating to the Agency Contract must be made directly to the Agency, except that as it relates to records required to be filed with the Florida Public Service Commission in order for UAO to seek approval of the Agency Contract, requests to inspect or copy public records shall be made to the Florida Public Service Commission. If the Agency does not possess the requested records, the Agency shall immediately notify the UAO of the request, and the UAO must provide the records to the Agency or allow the records to be inspected or copied within a reasonable time.
- f. If the UAO does not comply with the Agency's request for records, the Agency shall enforce the contract provisions in accordance with the Contract.
- g. If the UAO fails to provide the public records to the Agency within a reasonable time, the UAO may be subject to penalties under section 119.10, F.S.
- h. If a civil action is filed against the UAO to compel the production of public records relating to the Contract, the court shall assess and award against the UAO the reasonable costs of enforcement, including reasonable attorney fees, if (i) the court determines that the UAO unlawfully refused to comply with the public records request within a reasonable time; and (ii) at least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the UAO has not complied with the request, to the Agency and to the UAO. A UAO who complies with a public records request within 8 business days after the notice is sent is not liable for the reasonable costs of enforcement.
- i. **If the UAO has questions regarding the application of Chapter 119, F.S., to the UAO's duty to provide public records relating to this Contract, contact the Custodian of Public Records at:**

**Agency's Public Records Coordination Office
Agency for Persons with Disabilities
4030 Esplanade Way, Suite 335**

Tallahassee, FL 32399-0950
(850) 410-1309
publicrecords@apdcares.org

10. Assignments and Subcontracts

- a. The UAO shall not assign the responsibility for this Contract to another party without prior written approval of the Agency, and such approval shall only be granted upon the Agency's sole determination that such assignment will not adversely affect the public interest or the Agency; however, in no event may UAO assign or enter into any transaction having the effect of assigning or transferring any right to receive payment under this Contract which right is not conditioned on full and faithful performance of UAO's duties hereunder. Any sublicense, assignment, or transfer otherwise occurring without prior approval of the Agency shall be null and void. The UAO shall not subcontract for any of the work contemplated under this Contract without prior written approval of the Agency, which shall not be unreasonably withheld.
- b. To the extent permitted by Florida Law, and in compliance with Section 7 of this Contract, the UAO is responsible for all work performed and for all commodities produced pursuant to this Contract whether actually furnished by the UAO or its subcontractors. Any subcontracts shall be evidenced by a written document. The UAO further agrees that the Agency shall not be liable to the subcontractor in any way or for any reason. The UAO, at its expense, will defend the Agency against such claims.
- c. The UAO shall make payments to any subcontractor within seven (7) working days after receipt of full or partial payments from the Agency in accordance with section 287.0585, F.S., unless otherwise stated in the Contract between the UAO and subcontractor. Failure to pay within seven (7) working days will result in a penalty that shall be charged against the UAO and paid by the UAO to the subcontractor in the amount of one-half of one percent (.005) of the amount due per day from the expiration of the period allowed for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen percent (15%) of the outstanding balance due.
- d. The State of Florida shall at all times be entitled to assign or transfer, in whole or part, its rights, duties, or obligations under this Contract to another governmental agency in the State of Florida, upon giving prior written notice to the UAO. In the event the State of Florida approves transfer of the UAO's obligations, the UAO remains responsible for all work performed and all expenses incurred in connection with this Contract. This Contract shall remain binding upon the successors-in-interest of either the UAO or the Agency.
- e. The UAO shall include, or cause to be included, in all subcontracts (at any tier) the substance of all clauses contained in this Contract that mention or describe subcontract compliance.

11. Return of Funds

The UAO shall return to the Agency any balance of unobligated funds which has been advanced or paid, any funds paid in excess of the amount to which the UAO is entitled under the terms and conditions of this Contract, overpayments due to unearned funds or funds disallowed that were disbursed to the UAO by the Agency and any interest attributable to such funds pursuant to the terms and conditions of this Contract. In the event that the UAO or its independent auditor discovers that an overpayment has been made, the UAO shall repay said overpayment immediately without prior notification from the Agency. In the event that the Agency first discovers an overpayment has been made, the Contract Manager, on behalf of the Agency, will notify the UAO by letter of such findings. Should repayment not be made: (i) within two (2) business days after discovery by the UAO of the overpayment; or (ii) within ten (10) days after the notification letter is received from the Agency, then the UAO will be charged interest at the lawful rate of interest on the outstanding balance. Payments made for services subsequently determined by the Agency to not be in full compliance with Contract requirements shall be deemed overpayments. In the event UAO owes any amount to the Agency under this Contract and fails to pay such amount within thirty (30) days after written demand, the Agency may deduct such amount from payments due to UAO from the Agency pursuant to this Contract.

12. Civil Rights Requirements

In accordance with Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, or the

Florida Civil Rights Act of 1992, as applicable, the UAO shall not discriminate against any employee (or applicant for employment) in the performance of this Contract because of race, color, religion, sex, national origin, disability, age, pregnancy, or marital status. Further, the UAO agrees not to discriminate against any applicant, client, or employee in service delivery or benefits in connection with any of its programs and activities in accordance with 45 CFR Parts 80, 83, 84, 90, and 91, Title VI of the Civil Rights Act of 1964, or the Florida Civil Rights Act of 1992, as applicable. UAO agrees that compliance with this section constitutes a condition of continued receipt of funds under this Contract, and that these requirements shall apply to all contractors, subcontractors, subgrantees or others with whom it arranges to provide services or benefits to clients or employees in connection with its programs and activities. The UAO, and any subcontractor, subgrantee, or other UAO of federal financial assistance pursuant to this Contract shall complete the Civil Rights Compliance Checklist, APD Form 946, in accordance with 45 CFR Part 80 and 45 CFR Part 84 within sixty (60) calendar days after execution of this Contract, and the UAO shall complete APD Form 946 on an annual basis thereafter during the term of this Contract. The Civil Rights Compliance Checklist is not required of UAOs that have less than fifteen (15) employees, unless they provide direct client services.

13. Publicity

Without limitation, the UAO and its employees, agents, and representatives shall not, without prior Agency written consent in each instance, use in advertising, publicity or any other promotional endeavor any State mark, the name of the State's mark, the name of the State or any State affiliate or any officer or employee of the State, or represent, directly or indirectly, that any product or service provided by the UAO has been approved or endorsed by the State, or refer to the existence of this Contract in press releases, advertising or materials distributed to the UAO's prospective customers.

14. Final Invoice

The final invoice for payment shall be submitted to the Agency no more than 45 days after the Contract ends or is terminated. If the UAO fails to do so, all rights to payment are forfeited and the Agency will not honor any requests submitted after the aforesaid time period. Any payment due under the terms of this Contract may be withheld until performance of services and all reports due from the UAO and necessary adjustments thereto, have been approved by the Agency.

15. Use of Funds for Lobby Prohibited

The UAO shall comply with the provisions of sections 11.062 and 216.347, F.S., which prohibit the expenditure of Contract funds for the purpose of lobbying the Legislature, judicial branch, or a state agency.

16. Public Entity Crime and Discriminatory Contractors

Pursuant to sections 287.133 and 287.134, F.S., the following restrictions are placed on the ability of persons convicted of public entity crimes to transact business with the Agency. When a person or affiliate has been placed on the Convicted Vendor List following a conviction for a public entity crime, or an entity or affiliate has been placed on the Discriminatory Vendor List, such person, entity or affiliate may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or the repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity; provided, however, that the prohibition on persons or affiliates placed on the Convicted Vendor List shall be limited to business in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List. UAO warrants that neither it nor any affiliate is currently on the Convicted Vendor List maintained pursuant to Section 287.133, F.S., on the Discriminatory Vendor List maintained pursuant to Section 287.134, F.S., or any similar list maintained by the State of Florida or the federal government.

17. Gratuities

The UAO shall not offer to give or give any gift to any Agency employee. As part of the consideration for this Contract, the parties intend that this provision will survive the Contract for a period of two (2) years. In addition to any other remedies available to the Agency, any violation of this provision will result in referral of the UAO's

name and description of the violation of this term to the Department of Management Services for the potential inclusion of the UAO's name on the Suspended Vendor List for an appropriate period. The UAO shall ensure that its subcontractors, if any, comply with these provisions.

18. Patents, Copyrights, and Royalties

- a. It is agreed that all intellectual property, inventions, discoveries, written or electronically created materials, including manuals, presentations, films, or other copyrightable materials, arising in relation to UAO's performance under this Contract, and the performance of all of its officers, agents and subcontractors in relation to this Contract, are works for hire for the benefit of the Agency, fully compensated for by the Contract amount, and that neither the UAO nor any of its officers, agents nor subcontractors may claim any interest in any intellectual property rights accruing under or in connection with the performance of this Contract. Any intellectual property, inventions, discoveries, written or electronically created material or work of authorship produced or developed by UAO shall become the property of the Agency as part of delivering the required services under this Contract, and the Agency retains all rights of use associated with this ownership. It is specifically agreed that the Agency shall have exclusive rights to all data processing software falling within the terms of section 119.084, F.S., which arises or is developed in the course of or as a result of work or services performed under this Contract, or in any way connected herewith. Notwithstanding the foregoing provision, if the UAO is a university and a member of the State University System of Florida, then section 1004.23, F.S., shall apply.
- b. Except as provided in section 1004.23 F.S., to the extent that the Services provided by Contractor are generated by Contractor's proprietary software, created prior to the execution of this contract and not modified using funds from this contract, the Agency agrees that it has no claims of ownership, including copyrights, patents, or other intellectual property rights to Contractor's software. If the Contractor uses such proprietary software to provide the services required under this contract, Contractor grants the Agency a non-exclusive, perpetual right to use the software to access and view the Contractor's work."
- c. If the UAO uses or delivers to the Agency for its use or the use of its employees, agents or contractors, any design, device, or materials covered by letters patent, or copyright, it is mutually agreed and understood that, without exception, the compensation paid pursuant to this Contract includes all royalties or costs arising from the use of such design, device, or materials in any way involved in the work contemplated by this Contract.
- d. All applicable subcontracts shall include a provision that the Federal awarding agency reserves all patent rights with respect to any discovery or invention that arises or is developed in the course of or under the subcontract. Notwithstanding the foregoing provision, if the UAO or one of its subcontractors is a university and a member of the State University System of Florida, then section 1004.23, F.S., shall apply, but the Agency shall retain a perpetual, fully-paid, nonexclusive license for its use and the use of its contractors of any resulting patented, copyrighted or trademarked work products.

19. PUR (Purchasing) 1000 Form

The PUR 1000 Form dated 10/06, as amended from time to time, is hereby incorporated by reference and made a part hereof as if fully recited herein. Sections 1.d., 2-4, 6, 8-13, 19, 23, 27, 31, and 35 of the PUR 1000 Form are not applicable to this Contract. Other provisions of the PUR 1000 Form are clarified, revised or supplemented as set forth elsewhere in this Contract. In the event of any conflict between the PUR 1000 Form, and any terms or conditions of this Contract, the terms or conditions of this Contract shall take precedence over the PUR 1000 Form. Notwithstanding the foregoing, if the conflicting term in the PUR 1000 Form is required by any section of the Florida Statutes, the term in the PUR 1000 Form shall take precedence.

20. Notification of Legal Action

The UAO shall notify the Agency of potential or actual legal actions taken against the UAO related to services provided through this Contract or that may impact the UAO's ability to deliver the contractual services, or that may adversely impact the Agency. The Agency's Contract Manager will be notified within ten (10) calendar days of UAO becoming aware of such actions or from the day of the legal filing, whichever comes first.

21. Whistleblower's Act Requirements

In accordance with subsection 112.3187(2), F.S., the UAO and its subcontractors shall not retaliate against an employee for reporting violations of law, rule, or regulation that creates substantial and specific danger to the public's health, safety, or welfare to an appropriate agency. Furthermore, agencies or independent contractors shall not retaliate against any person who discloses information to an appropriate agency alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of an agency, public officer, or employee. The UAO and any subcontractor shall inform its employees that they and other persons may file a complaint with the Office of Chief Inspector General, Agency Inspector General, the Florida Commission on Human Relations or the Whistle-blower's Hotline number at 1-800-543-5353.

22. Proprietary or Trade Secret Information

- a. Unless exempted by law, all public records are subject to public inspection and copying under Florida's Public Records Law, Chapter 119, F.S. Any claim by UAO of proprietary or trade secret confidentiality for any information contained in UAO's documents (reports, deliverables or work papers, etc., in paper or electronic form) submitted in connection with this Contract will be waived, unless the claimed confidential information is submitted in accordance with Section 22.b. below.
- b. In accordance with Section 215.985(14), F.S., this Contract, is subject to inclusion in the web-based system called the Florida Accountability Contract Tracking System (FACTS). A copy of this Contract, any amendments, renewals, and extensions thereof, and any associated procurement documents, are subject to posting in FACTS and made available to the public. Any claim by UAO that the Contract or procurement documents contain "confidential" or "exempt" material will be waived at the time of execution of this Contract, unless the claimed confidential information is submitted in accordance with Section 22.c. below.
- c. The UAO must clearly label any portion of the documents, data, or records submitted that it considers exempt from public inspection or disclosure pursuant to Florida's Public Records Law as confidential, exempt, proprietary or trade secret. The labeling will include a justification citing specific statutes and facts that authorize exemption of the information from public disclosure. If different exemptions are claimed to be applicable to different portions of the protected information, the UAO shall include information correlating the nature of the claims to the particular protected information. The UAO is deemed to have released the Agency from liability for disclosure of confidential, exempt, proprietary, or trade secret information if Provide fails to comply with this subsection at the time the Contract is executed.
- d. The Agency, when required to comply with a public records request including documents submitted by the UAO, may require the UAO to expeditiously submit redacted copies of documents marked as confidential, exempt, proprietary, or trade secret in accordance with Section 22.c. above. Accompanying the submission shall be an updated version of the justification under Section 22.c. above, correlated specifically to redacted information, either confirming that the statutory and factual basis originally asserted remain unchanged or indicating any changes affecting the basis for the asserted exemption from public inspection or disclosure. The redacted copy must exclude or obliterate only those exact portions that are claimed to be proprietary or trade secret. If the UAO fails to promptly submit a redacted copy, the Agency is authorized to produce the records sought without any redaction of proprietary or trade secret information.
- e. The UAO shall be responsible for defending its claim that each and every portion of the redactions of confidential, proprietary, or trade secret information are exempt from inspection and copying under Florida's Public Records Law.

23. Contract Payment

Pursuant to section 215.422, F.S., the Agency has five (5) working days to inspect and approve goods and services, unless the bid specifications, purchase order, or this Contract specify otherwise. With the exception of payments to health care UAOs for hospital, medical, or other health care services, if payment is not available within forty (40) days, measured from the latter of the date a properly completed invoice is received by the Agency or the goods or services are received, inspected, and approved, a separate interest penalty set by the Chief Financial Officer pursuant to section 55.03, F.S., will be due and payable in addition to the invoice amount. Payments to health care UAOs for hospital, medical, or other health care services, shall be

made not more than thirty-five (35) days from the date eligibility for payment is determined. Financial penalties will be calculated at the daily interest rate of .03333%. Invoice payment requirements do not start until a properly completed invoice is provided to the Agency. Interest penalties less than one (1) dollar will not be paid unless the UAO requests payment. Payment shall be made only upon acceptance by the Agency, but shall remain subject to subsequent audit or review to confirm Contract compliance and/or to the Return of Funds provision of Section 15 of this contract. Subject to the terms and conditions of UAO's Electric Tariff on file with the Florida Public Service Commission and Attachment 1, Section E.1.f., UAO may interrupt service to Agency's Facility as a result of Agency's failure to pay any properly completed invoice, as well as applicable interest penalties, from UAO within one hundred twenty (120) days following the payment due date.

24. Vendor Ombudsman

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422(7), F.S., which include disseminating information relative to prompt payment by the State and assisting vendors in receiving their payments in a timely manner from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or (800) 342-2762, the State of Florida Chief Financial Officer's Hotline.

25. Notice

Any notice that is required under this Contract shall be in writing and sent by U.S. Postal Service or any expedited delivery service that provides verification of delivery or by hand delivery. Said notice shall be sent to the representative of the UAO responsible for administration of the program, to the designated address contained in this Contract.

26. Financial Consequences for UAO's Failure to Perform or Failure to Comply with Requirement for Corrective Actions

- a. Corrective action plans and/or financial consequences must be required for noncompliance, nonperformance, unacceptable performance, or failure to meet the minimum level of service or performance under this Contract. Financial consequences must be imposed for failures to timely implement or to make acceptable progress on such corrective action plans.
- b. Financial consequences must include, but are not limited to, the financial consequences set forth in subsections c, d, and e below.
- c. The increments of financial consequences that shall apply must be based upon the severity of the noncompliance, nonperformance, or unacceptable performance that generated the need for a corrective action plan. The financial consequences shall not exceed ten percent (10%) of the total Contract payments during the period in which the corrective action plan has not been implemented or in which acceptable progress toward implementation has not been made. Noncompliance that is determined to have a direct effect on client health and safety shall result in the imposition of a ten percent (10%) financial consequence of the total Contract payments during the period in which the corrective action plan has not been implemented or in which acceptable progress toward implementation has not been made.
- d. Noncompliance involving the provision of service not having a direct effect on client health and safety must result in the imposition of a five percent (5%) financial consequence. Noncompliance as a result of unacceptable performance of administrative tasks must result in the imposition of a two percent (2%) financial consequence.
- e. The deadline for payment shall be as stated in the notification imposing the financial consequences. In the event of nonpayment, the Agency may deduct the amount of the financial consequences from invoices submitted by the UAO.
- f. Any payment made in reliance on the UAO's evidence of performance, which evidence is subsequently determined to be erroneous, will be immediately due as an overpayment in accordance with Section 11 above, titled "Return of Funds" to the extent of such error.
- g. If this Contract is funded with federal assistance, this provision can be excluded from the contract only if financial consequences are prohibited by the federal agency awarding the funds.

27. Termination

- a. This Contract may be terminated by either party without cause upon no less than thirty (30) calendar days notice in writing to the other party unless a sooner time is mutually agreed upon in writing. Said notice shall be delivered by U.S. Postal Service or any expedited delivery service that provides verification of delivery or by hand delivery to the Contract Manager or the representative of the UAO responsible for administration of the program. The UAO shall not furnish any product after it receives the written notice of termination, except as necessary to complete the continued portion of the Contract, if any. The UAO shall be compensated for any work satisfactorily completed up to and including the date of termination, but shall not be entitled to recover any cancellation charges or lost profits.
- b. In the event funds for payment pursuant to this Contract become unavailable, the Agency may terminate this Contract upon no less than twenty-four (24) hours notice in writing to the UAO. Said notice shall be sent by U.S. Postal Service or any expedited delivery service that provides verification of delivery. The Agency shall be the final authority as to the availability and adequacy of funds. In the event of termination of this Contract, the UAO will be compensated for any work satisfactorily completed prior to the effective date of the termination.
- c. In the event the UAO fails to fully comply with the terms and conditions of this Contract, the Agency may terminate the Contract upon no less than twenty-four (24) hours (excluding Saturday, Sunday, and Holidays) notice in writing to the UAO after UAO's failure to fully cure such noncompliance within the time specified in a written notice of noncompliance issued by the Agency specifying the nature of the noncompliance and the actions required to cure such noncompliance. In addition, the Agency may, if applicable, employ the default provisions in Rule 60A-1.006(3), Florida Administrative Code (F.A.C.), but is not required to do so in order to terminate the Contract. The Agency's failure to demand performance of any provision of this Contract shall not be deemed a waiver of such performance. The Agency's waiver of any one breach of any provision of this Contract shall not be deemed to be a waiver of any other breach and neither event shall be construed to be a modification of the terms and conditions of this Contract. The provisions herein do not limit the Agency's right to remedies at law or in equity.
- d. Failure to have performed any contractual obligations under any other contract with the Agency in a manner satisfactory to the Agency will be a sufficient cause for termination. To be terminated as a UAO under this provision, the UAO must have: (i) previously failed to satisfactorily perform in a contract with the Agency, been notified by the Agency of the unsatisfactory performance, and failed to correct the unsatisfactory performance to the satisfaction of the Agency; or (ii) had a contract terminated by the Agency for cause. Termination pursuant to this Section 27.d., shall be upon no less than twenty-four (24) hours notice in writing to the UAO (excluding Saturday, Sunday, and State Holidays).

28. Renegotiations or Modifications

Modifications of provisions of this Contract shall be valid only when they have been reduced to writing and duly signed by both parties during the term of the Contract. The rate of payment and the total dollar amount may be adjusted retroactively to reflect price level increases and changes in the rate of payment when these have been established through the appropriations process and subsequently identified in the Agency's operating budget. If the services provided under this Contract are the same type of service that is offered under the Developmental Disabilities Home and Community Based Waiver Services (HCBS) and the established rates are adjusted, the rates of services under this Contract may be modified to be in alignment with the adjustment, which UAO shall not unreasonably withhold consent to such modification.

29. Dispute Resolution

Any dispute concerning performance of the Contract or payment hereunder shall be decided by the Agency's Contract Manager, who shall reduce the decision to writing and provide a copy to the UAO. The decision shall be final and conclusive unless within twenty-one (21) calendar days from the date of receipt of the Contract Manager's decision, the UAO delivers to the Contract Manager a petition for alternative dispute resolution. After receipt of a petition for alternative dispute resolution the Agency and the UAO shall attempt to amicably resolve the dispute through negotiations. Timely delivery of a petition for alternative dispute resolution and completion of the negotiation process shall be a condition precedent to any legal action by the UAO concerning this Contract. After timely delivery of a petition for alternative dispute resolution, the parties

may employ any dispute resolution procedures described in the **Attachment I** or other attachment, or mutually agree to an alternative binding or nonbinding dispute resolution process, the terms of which shall be reduced to writing and executed by both parties. Completion of such agreed process shall be deemed to satisfy the requirement for completion of the negotiation process. This provision shall not limit the parties' rights of termination under Section 39.d. above.

30. Background Screening

a. The UAO shall ensure that all UAO's staff, and UAO's subcontractor's staff, meet Level Two Background Screening requirements in accordance with section 393.0655 and Chapter 435, F.S., as a condition of employment and continued employment. The screening includes fingerprinting for statewide criminal history records checks through the Department of Law Enforcement, national criminal history records checks through the Federal Bureau of Investigation, and local criminal records checks through local law enforcement agencies. The UAO must submit to the Contract Manager, a signed affidavit, attesting that all current employees have been screened and cleared. An updated affidavit must be sent to the Contract Manager annually. Documentation of background screening shall be maintained in the employee's personnel file. The UAO shall be responsible for ensuring UAO's subcontractor's compliance with this section.

31. Renewals

This Contract may be renewed, unless specifically stated otherwise in the **Attachment I**, for a term not to exceed three (3) years or for the term of the original Contract, whichever is longer. Such renewal shall be made by mutual agreement and shall be contingent upon satisfactory performance evaluations as determined by the Agency. Contracts procured by an exceptional purchase pursuant to Section 287.057 (3)(a) or (3)(c), F.S., may not be renewed. Any renewal shall be subject to the availability of funds and any costs for renewing the contract shall not be charged. Any renewal must be in writing and is subject to the same terms and conditions as set forth in the initial Contract and any written amendments signed by the parties.

32. Verification of Employment Status (E-Verify)

Pursuant to State of Florida Executive Order Number 11-116, the UAO and its subcontractors shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment of all new employees hired by the UAO during the Contract term. The UAO shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to this contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the Contract term. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>. Evidence of the use of the E-Verify system shall be maintained in the employee's personnel file.

33. MyFloridaMarketPlace Registration

To comply with Rule 60A-1.033, F.A.C., each UAO doing business with the State of Florida for the sale of commodities or contractual services as defined in section 287.012, F.S., shall register in the MyFloridaMarketPlace system, unless exempted under Rule 60A-1.033(3), F.A.C. Information about the registration process is available, and registration may be completed, at the MyFloridaMarketPlace website (link under Business on the State portal at www.myflorida.com).

34. MyFloridaMarketPlace Transaction Fee

The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement System. Pursuant to subsection 287.057(22), F.S., all payments shall be assessed a transaction fee of one percent (1.0%), which the UAO shall pay to the State unless exempt pursuant to 60A-1.031, F.A.C. For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the UAO. If automatic deduction is not possible, the UAO shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, UAO certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

The UAO shall receive a credit of any transaction fee paid by the UAO for the purchase of any item(s) if such

item(s) are returned to the UAO through no fault, act, or omission of the UAO. A Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the UAO's failure to perform or comply with specifications or requirements of the agreement.

Failure to comply with these requirements shall constitute grounds for declaring the UAO in default and recovering procurement costs from the UAO in addition to all outstanding fees. **VENDORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

35. Scrutinized Companies

If this Contract is valued at \$1,000,000 (total Contract value) or more, awarded, extended, or renewed on or after July 1, 2011, the UAO agrees to refrain from any of the prohibited business activities with the Governments of Sudan and Iran as described in section 215.473, F.S. If this Contract is valued at \$1,000,000 (total Contract value) or more, awarded, extended, or renewed on or after July 1, 2012, the UAO also agrees to not engage in business operations in Cuba or Syria as described in section 287.135, F.S. If this Contract is valued at \$1,000,000 (total Contract value) or more, awarded, extended, or renewed on or after October 1, 2016, the UAO also agrees to refrain from the boycott of Israel as described in section 215.4725, F.S. Pursuant to section 287.135, F.S., the Agency may immediately terminate this Contract for cause if the UAO is found to have submitted a false certification required under Section 287.135(5), F.S., or the UAO is placed on the Scrutinized Companies that Boycott Israel List, or is engaged in the boycott of Israel as described in section 215.4725, F.S, or is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or engaged in business operations in Cuba or Syria during the term of the Contract. If this Contract is valued at \$1,000,000 (total Contract value) or more, in execution of this Contract, UAO certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, is not participating in a boycott of Israel, and has not engaged in business operations in Cuba or Syria.

36. Official Payee and Representatives (Names, Addresses, Telephone Numbers, E-mail addresses):

a. The UAO name, as shown on page 1 of this Contract, and mailing address of the official payee to whom the payment shall be made is:

Florida Public Utilities
2825 Penn Ave.
Marianna, FL 32448
904-430-4727

c. The name, mailing address, telephone number, and e-mail address of the Contract Manager for the Agency for this Contract is:

Ryland Musick
4030 Esplande Way
Tallahassee, FL 32399-0950
850-558-9486
Ryland.Musick@apdcares.org

b. The name of the contact person and street address where financial and administrative records are maintained is:

Shane Magnus
2825 Penn Ave.
Marianna, FL 32448
904-557-1678
smagnus@chpk.com

d. The name, mailing address, telephone number, and e-mail address of the representative of the UAO responsible for administration of the program under this Contract is:

Shane Magnus
2825 Penn Ave.
Marianna, FL 32448
904-557-1678
smagnus@chpk.com

Upon change of representative information (names, addresses, telephone numbers or e-mail addresses) by either party, notice shall be provided in writing to the other party and the notification attached to the originals of this Contract.

37. All Terms and Conditions Included

This Contract and its attachments, I & II, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, either verbal or written between the parties with respect to the subject matter hereof; however, this Contract shall not supersede or replace the Operations and Maintenance Agreement between the parties dated December 22, 2022, which shall remain in effect in accordance with its terms. UAO shall comply with all applicable federal, state, and local laws and regulations. If any term or provision of this Contract is legally determined unlawful or unenforceable, the remainder of the Contract shall remain in full force and effect and such term or provision shall be stricken. In the event of a conflict between the provisions of the documents, the documents shall be interpreted in the following order of precedence:

- a. Attachment I and other attachments, if any;
- b. Any documents incorporated into any attachment by reference;
- c. The Standard Contract; and
- d. Any documents incorporated in the Standard Contract by reference.

By signing this Contract, the parties acknowledge that they have read and agree to the entire Contract, as described in Section 37 above.

IN WITNESS THEREOF, the parties hereto have caused this 36 page Contract to be executed by their undersigned officials as duly authorized.

FLORIDA PUBLIC UTILITIES

FLORIDA AGENCY FOR PERSONS WITH
DISABILITIES

SIGNATURE: _____

SIGNATURE: _____

NAME: _____

NAME: Taylor N. Hatch

TITLE: _____

TITLE: Director

DATE: _____

DATE: _____

FEDERAL EID # (or SSN, if applicable): 59-0539080

UAO Fiscal Year Ending Date: 6/30

State Project # 22FDM1020

Revised 03/18

**ATTACHMENT I
(UTILITY WORK SERVICES)**

A. SERVICES TO BE PROVIDED

1. General Description

a. Scope of Work

The UAO shall provide the services as defined in Exhibit A, Schedule of Work and Budget Summary.

These services are expected to be in effect for the dates stated in the Standard Contract, Section 3, Effective and Ending Dates.

b. Authority

The Agency is authorized to enter into this Contract under the authority found in Chapter 255, Florida Statutes (F.S.).

c. Contract Limits

The services provided under this Contract are limited to the availability of funds and to approval of this contract by the Florida Public Service Commission. The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.

B. MANNER OF SERVICE PROVISION

1. Deliverables

Project Activities are defined in Exhibit A, Schedule of Work and Budget Summary.

2. Service Tasks

The UAO shall complete the following tasks during the term of this Contract.

a. Task List

1) Furnished Energy

- a. The UAO shall furnish and/or sell electric energy for use on the premises of the Sunland Center in Marianna, Florida.
- b. Energy shall be either single phase or three phase, 60 cycle alternating current delivered to various locations with the boundary of Sunland Center.
- c. Voltages may vary +/- 7.5% and will include single phase 120/240 volts or three phase 277/480 volts.
- d. Construct, own and operate an underground electric distribution system within the boundaries of Sunland Center.

2) Points of Delivery

- a. Remove as much of the overhead distribution system as possible without impacting the existing overhead telephone and communication equipment/ conductors while minimizing any temporary power outages that may be

necessary during construction.

- b. Provide replacement of existing overhead facilities with new overhead facilities that meet NESC Storm Hardening Standards, and provide an underground electric distribution system that shall consist of primary conductors/conduit, pad mounted transformers/switches, secondary conductors/conduit and service conductor/conduit.
 - (1) This system will not include any telephone or communication equipment/conductors.
 - c. Utilize primary overhead metering equipment which shall be designated as the point of delivery that will meter all energy used at Sunland Center.
 - (1) The primary overhead metering equipment shall be installed, maintained and owned by UAO.
 - (2) The meter will be placed in a locked and secure cabinet at that location.
 - (3) Meter shall be manually read by UAO on a monthly basis.
 - (4) UAO personnel entering Sunland Center to read, maintain, change, etc. the metering equipment must follow and comply with all access procedures required by Sunland Center.
 - (5) If, at some future date, automated meter reading is employed, access times will be reduced but access procedures will still be followed when access to the meters is required.
- 3) Maximum Contracted energy Capacity.
- a. Maximum energy capacity available to Sunland Center measured at the point of delivery is 2,000 KVA.
 - 4) The UAO shall select qualified, licensed contractor(s) and execute contract(s) with the selected contractor(s). The UAO shall ensure that each selected contractor possesses and maintains a current and valid occupational/business tax receipt issued for the type of services being performed.
 - 5) The UAO must follow all applicable state, local, and federal laws, regulations, and requirements, and obtain and comply with all required permits and approvals.
 - 6) The UAO shall monitor and manage utility activities in accordance with the scope of work and proposal submitted to the Agency. The UAO and contractor(s) shall be responsible for maintaining a safe and secure worksite for the duration of the work. The contractor shall maintain all work staging areas in a neat and presentable condition.
 - 7) Upon completion of the work, the UAO shall schedule and participate in a final inspection of the completed work by all approving officials, as applicable. The official shall inspect and certify all installations have been completed according to the manufacturers' specifications. The UAO shall ensure any deficiencies found during this inspection are corrected by the specified contractor(s).
- b. Task Limits
- The UAO is limited to receiving payment only for the tasks specified and performed in accordance with its proposal and this Contract, unless there is expressed written consent from the Agency for expansion. Such consent can only be authorized by a

formal contract amendment. The UAO's proposal and any subsequent updates are incorporated herein by reference and maintained in the Contract Manager's file.

3. Staffing Requirements

a. Staffing Levels

- 1) The UAO shall maintain an adequate and qualified administrative staff, qualified management staff, support staff and organizational structure to satisfactorily meet the Contract terms, conditions and deliverables, in accordance with the proposed budget submitted by the UAO which is incorporated herein by reference and maintained in the Contract Manager's file.
- 2) Staff selected by the UAO to conduct work identified in this Contract and the tasks for which they shall be responsible shall be identified to the Agency in writing, and such staff shall be accessible to the Agency upon request.
- 3) In the event the Agency determines the UAO's staffing levels are not adequate to successfully accomplish contract deliverables, the Agency shall advise the UAO in writing and the UAO shall have thirty (30) calendar days to remedy the identified staffing deficiencies.

b. Staffing Changes

- 1) The UAO shall notify the Contract Manager within two (2) business days of any changes in Executive Management, such as the Executive Director or equivalent and the Chief Financial Officer.

c. Subcontractors

This Contract allows the UAO to subcontract for the provision of all services under this Contract, subject to the provisions of Section 10 of the Standard Contract. Written requests by the UAO to subcontract for the provision of services under this Contract shall be routed through the Contract Manager for Agency approval. The UAO cannot subcontract with an employee of the Agency to provide services pursuant to this Contract.

d. Service and Equipment Delivery Location

- 1) Services shall be provided at Sunland Center located at 3700 Williams Road, Marianna, FL 32446

e. Changes in Location

The UAO shall notify the Contract Manager in writing a minimum of five (5) business days prior to changing the location of administrative services that will affect the Agency's ability to contact the UAO by telephone, email or facsimile transmission. Notice should specify the address of the location and telephone number where the UAO may be reached.

f. Equipment

- 1) The UAO shall be responsible for supplying all equipment necessary to perform, conduct and complete the terms and conditions of this Contract.
- 2) The UAO shall utilize its own vehicles for contract-related travel.

C. RECORDS AND DOCUMENTATION

1. The UAO shall maintain records in whatever reasonable format required by the Agency at the UAO's expense. Data files shall be provided in a format readable by the Agency.
2. The UAO shall maintain records and documentation as specified in this Contract to ensure an audit trail documenting service delivery is maintained.
3. The UAO shall maintain a separate, organized, individualized, and secure file to include applicable reporting forms, progress reports and all other required elements.
4. The UAO shall maintain copies of all invoices submitted to the Agency.
5. All records and documentation shall be made available to the Agency at any time, if requested.
6. The UAO shall insure its subcontractors maintain records and documentation of applicable reporting forms, progress reports and all other required elements.

D. REPORTS

All required reports and/or plans shall be in a format approved by the Agency and received by the required due dates stated in the Contract. If the dates fall on an established State holiday or weekend, such reports shall be due the next business day. If a natural disaster occurs, such reports shall be due when Agency administrative services are restored. The UAO must request prior approval, in writing, to submit required reports and/or plans after the due dates.

The UAO shall submit all reports and/or plans to the Contract Manager as indicated on Page 11, Section 36.c. of the Standard Contract.

1. Monthly Project Progress Report: The UAO shall submit a summary of activities and work accomplished during the month for this project to the Contract Manager by the 15th of each month, following the month of service delivery.
2. Quarterly Expenditure Report: This report shall document total expenditures for each quarter ending September 30, December 31, March 31, and June 30. The UAO shall provide the original budgeted amount for each category item as listed in the approved budget, expenditures during the contract period, and the remaining balance within fifteen (15) calendar days following the quarter ending date.

E. UAO RESPONSIBILITIES

1. UAO Unique Activities

- a. Upon six months written notification from the Agency for an increase in maximum energy capacity and upon mutual approval the UAO shall use its best efforts to make available the increase in capacity.
- b. The UAO shall manually read its primary overhead meter at intervals of approximately thirty (30) days to determine Sunland Center's maximum demand and energy consumed. Should automated or remote meter reading be installed in the future, only periodic manual inspections of the meter will be necessary.
- c. The UAO shall periodically inspect and test the primary overhead meter at intervals not exceeding two (2) years. If the Agency so desires, an authorized representative shall be allowed to witness the test. Should the Agency request a test within twelve (12) months of the previous test, the cost of such additional tests shall be borne by

- the Agency if the percentage of error is found to be not more than two (2) percent slow or fast.
- d. The UAO endeavors to provide the Agency with a continuous supply of energy to Sunland Center, however, uninterrupted services are not guaranteed.
 - e. The UAO shall not be liable for any damage that the Sunland Center or any third person or persons may sustain by reason of interruption or failure of such service, whether caused by an act of God, accident, fire, flood, strike, explosion, or other acts beyond the control of FPU.
 - f. The UAO shall give Sunland Center at least thirty (30) days' notice of any planned energy outage and as much notice as possible of any unplanned energy outage.
 - g. The UAO shall coordinate construction activities with Sunland Center in order to minimize negative impacts related to transportation or electrical outages and both parties will perform all activities in a safe and efficient manner. Sunland will be responsible for modification to all service entrance equipment necessary to accept underground service from FPU. Existing or modified service entrance equipment shall meet the National Electrical Code and all local building codes prior to connection to the FPU underground system.
 - h. The UAO warrants that all UAO owned equipment, apparatus and materials installed, operated and used to transmit and deliver electric energy to the Sunland Center, in a safe manner, is in good working order, installed safely according to applicable codes.
 - i. The UAO shall not increase or modify its facilities to supply electrical energy herein contracted for by the Agency without prior written consent by the Agency.
 - j. The UAO shall obtain the approval of the Florida Public Service commission prior to execution of this contract.

F. AGENCY RESPONSIBILITIES

1. Agency Obligations

- a. The Agency grants the UAO the right and privilege of reasonable ingress and egress in, over and across its property at all times during the term of this contract or any extension thereof, for the purpose of constructing, maintaining, repairing and/or operating its lines and metering and/or all other equipment used in connection with the furnishing of said electric energy to Sunland Center.
- b. The Agency agrees to grant the UAO a suitable right-of-way, for the term of this agreement, for the location of UAO facilities on the property of Sunland Center.
- c. The Agency shall provide a suitable, suitable laydown yard for storing materials that allows for easy access by heavy duty construction vehicles.
- d. The Agency shall sign and return any required city/county ROW permits (if needed), and sign, record and return any Easements (if needed).
- e. Upon request, the Agency can, without charge, request that the UAO test the accuracy of the primary overhead meter if the UAO does not periodically inspect and test within twelve (12) months.
- f. The Agency will be responsible for modification to all service entrance equipment

necessary to accept underground service from the UAO. Existing or modified service entrance equipment shall meet the National Electrical Code and all local building codes prior to connection to the UAO underground system.

- g. The Agency warrants that all electrical wiring and installation of Sunland Center owned electrical equipment are completely installed safely according to applicable codes.
 - h. The Agency shall maintain all electrical wiring, poles, circuit breakers, switches, lights, appliances and other equipment on the Sunland Center premises in a good state of repair and installed in such a manner as to enable Sunland Center to receive and utilize electric energy safely. All wiring and installation of electrical appliances and equipment shall be completed in such a manner as to not produce or introduce electrically related disturbances to FPU's lines or equipment.
 - i. The Agency shall not resell nor permit the use of the electrical energy delivered by the UAO to persons, firms, or corporations without UAO prior written consent. Agency staff that live on the Sunland Center premises shall be allowed to remit payment to Sunland Center.
- 2. Agency Determinations**
- a. The Agency has exclusive authority to determine the availability of funds, authorize and issue payment for services billed under this Contract, and to determine the satisfactory performance of the UAO in carrying out tasks and completing deliverables specified in this Contract through the review or inspection of reports and deliverables submitted by the UAO and through Agency monitoring.
 - b. Final authority in all disputes related to this Contract rests solely with the Agency. The Agency agrees to make reasonable efforts to consult with the UAO and amicably resolve all disputes prior to such final determination.
- 3. Monitoring Requirements**
- The UAO shall be monitored in accordance with Agency requirements, as applicable.

G. METHOD OF PAYMENT

1. Payment Clause

This is a **Fixed Price (Lump Sum) contract**. The Agency shall pay the UAO for the delivery of service units at the rates specified in Exhibit A, Schedule of Work and Budget Summary, in accordance with the satisfactory completion of all terms and conditions of this Contract, for a total amount not to exceed the amount specified in the Standard Contract. The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature. The Agency's obligation to pay under this Contract is subject to the availability of funds.

2. Invoice Requirements and Documentation

- a. The UAO shall request payment on a monthly basis through the submission of a properly completed Request for Payment/Invoice within fifteen (15) calendar days following the month of service delivery. Payment cycles shall be from the first (1st) through the end of each month, unless specified otherwise in this Contract.
- b. The Request for Payment/Invoice shall include, at a minimum, the following information:

- 1) UAO's Name.
 - 2) Contract Number.
 - 3) State Project Number.
 - 4) Vendor Identification Number (Federal Tax Identification Number).
 - 5) Invoice Number.
 - 6) Inclusive dates (for the month) of services covered by the invoice.
 - 7) Types of services, number of units, and price per unit.
 - 8) A listing of all invoiced costs to be accompanied by copies of supporting documentation and actual receipts, if applicable to this Contract.
 - 9) Invoice Total.
 - 10) Percent of Work Completed.
 - 11) The date on which the invoice was submitted to the Agency.
 - 12) Required reports or a concise, meaningful description of services rendered, with sufficient detail to enable the Agency to evaluate services rendered and costs; and
 - 13) A certification statement signed by the UAO's contract administrator or authorized representative that reads, "I certify that all items and amounts shown on the face of this request for payment are correct, that all backup information is attached, that all work has been performed and material supplied in full accordance with the terms and conditions of the Contract, and that all materialmen, laborers and subcontractors, as defined in section 713.01, Florida Statutes, have been paid the amounts due them per section 287.0585, Florida Statutes. Further, I agree to promptly pay each materialmen, laborer and subcontractor, as defined in Chapter 713.01, Florida Statutes, upon receipt of payment from the Agency, out of the amount paid to Florida Public Utilities on account of such materialman's, laborer's or subcontractor's work, the amount to which said materialman, laborer and subcontractor is entitled per section 287.0585, Florida Statutes, reflecting the percentage actually retained, if any, from payments to Florida Public Utilities on account of such materialman's, laborer's and subcontractor's work."
- c. The invoice shall be on the UAO's letterhead and contain a signature from an appropriate officer or authorized individual (with a Signature Authority Letter, if applicable).
- d. If applicable, the UAO shall submit to the Contract Manager all supporting documentation required for reimbursement of services rendered as stated in this Contract. This documentation shall accompany the monthly invoice.
- 3. Financial Consequences**
The financial consequences as defined in Exhibit A, Schedule of Work and Budget Summary, shall apply to this Contract.
- 4. MyFlorida MarketPlace Transaction Fee**

This Contract is exempt from the MyFloridaMarketPlace Transaction Fee in accordance with Rule 60A-1.032(1) (d), F.A.C.

H. LIST OF EXHIBITS

1. Exhibit A, Schedule of Work and Budget Summary
2. Exhibit B, General Service Large Demand Rate Schedule
3. Exhibit C, Rate Adjustment Rider- Northwest Florida Division
4. Exhibit D, Storm Recovery Surcharge

EXHIBIT A: Schedule of Work and Budget Summary

Enter UAO Name: Florida Public Utilities
 Contract #: LCY04 Fiscal Year: 23-24
 State Project #: 22FDM1020

Schedule of Work

Contractor(s) Execution Process:	6 months
Design and Engineering:	6 months
Permitting:	4 months
Installation:	6 months
Final Inspection and Invoicing, Closeout:	2 months
Total Contract Period	24 months

Budget Summary

TBN: To Be Negotiated as part of the Guaranteed Maximum Price.

Soft Costs:	\$0.00
Those costs not directly related to construction including, but not limited to, pre and post construction activities. Soft costs include, but are not limited to, permit fees; impact fees; utility purveyor fees, architecture, civil, structural, and mechanical & electrical engineering fees. Also, provision of engineered plans for construction, to include drawings for use in bidding and material list to be used for purchasing materials.	
General Conditions:	\$
Costs include, but are not limited to, industry standard costs for project management, supervision, reproduction expenses, temporary utilities, fire protection, clean-up, debris disposal, final cleaning, temporary fencing and general liability insurance. Ordering of necessary poles, underground equipment, overhead wire, underground cable, transformers (pad mounted and pole mounted), secondary circuits, associated devices, and other hardware to be able to complete the improvements as designed.	
Site Costs:	\$
Costs include, but are not limited to traditional site development, hardscapes, dumpster enclosure, fencing and bollards and interior demolition.	
Renovations/Construction:	\$2,085,000.00
Procurement of contractor support for the construction and replacement of new and existing facilities located at the Sunland Facility in Marianna, FL. The above shall be completed using a mixture of internal manpower and 3 rd party manpower. Construction shall meet or exceed NESC Construction Standards and the Florida Public Service Commission Storm Hardening Requirements. All Construction shall be within the scope of the current Operations and Maintenance Agreement between Florida Public Utilities Company and Agency for Persons with Disabilities.	

Total Cost: \$2,085,000.00

Total Cost:	\$2,085,000.00
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Financial Consequences:

1. If Florida Public Utilities fails to comply with any terms or conditions of the Contract, the Agency shall apply one or more of the following financial consequences during the term of the Contract:
 - a. Withhold final payment for \$208,500.00 renovations pending correction of all deficiencies by the UAO and approval by the Agency.
2. In addition to the foregoing, the Agency must implement financial consequences in accordance with Page 6, Section 26 of the Standard Contract and section 287.058(1)(h), F.S., if (Enter UAO Name) does not perform in accordance with the terms and conditions of this Contract.

Notes:

Monthly Progress Reports including a summary of work and activities accomplished during the reporting period of this Contract will be utilized to document service delivery.

The Agency's review of supporting documentation shall determine compliance and minimum level of services or performance under this Contract.

UAO: Florida Public Utilities
Revised 07/2017

ATTACHMENT II

The administration of resources awarded by the Agency for Persons with Disabilities to the UAO may be subject to audits and/or monitoring by the Agency as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, the Agency for Persons with Disabilities (APD) or other State agencies may monitor or conduct oversight reviews to evaluate compliance with the contract, management and programmatic requirements. Such monitoring or other oversight procedures may include, but not be limited to, on-site visits by APD and/or other State agencies' staff, limited scope audits as defined by OMB Circular A-133, as revised or other procedures. By entering into this contract, the UAO agrees to comply and cooperate with any monitoring procedures deemed appropriate by APD and/or other State agencies. In the event that APD and/or another State agency determines that a limited scope audit of the UAO is appropriate, the UAO agrees to comply with any additional instructions provided by APD and/or other State agencies regarding such audit. The UAO further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the APD Inspector General, the state's Chief Financial Officer or the Auditor General.

AUDITS

PART I: FEDERAL REQUIREMENTS

This part is applicable if the UAO is a State or local government or a non-profit organization as defined in OMB Circular A-133, as revised.

1. In the event that the UAO expends \$750,000 or more in Federal awards during its fiscal year, the UAO must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. In determining the Federal awards expended during its fiscal year, the UAO shall consider all sources of Federal awards, including Federal resources received from APD, Federal government (direct), other state agencies, and other non-state entities. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the UAO conducted by the Auditor General in accordance with the provisions of OMB Circular A-133, as revised, will meet the requirements of this part. In connection with the above audit requirements the UAO shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133, as revised.

The schedule of expenditures should disclose the expenditures by contract number for each contract with APD in effect during the audit period. The financial statements should disclose whether or not the matching requirement was met for each applicable contract. All questioned costs and liabilities due APD shall be fully disclosed in the audit report package with reference to the specific contract number.

2. If the UAO expends less than \$750,000 in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of OMB Circular A-133, as revised, is not required. In the event the UAO expends less than \$750,000 in Federal awards during its fiscal year, the UAO agrees to provide certification to APD's Contract Administration and its Contract Manager that a single audit was not required. In the event that the UAO expends less than \$750,000 in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, as revised,

the cost of the audit must be paid from non-Federal resources (i.e., the cost of such an audit must be paid from UAO resources obtained from other than Federal entities).

3. The OMB Circular A-133 and compliance supplement are available at the following address: <http://www.whitehouse.gov/omb/circulars/>

PART II: STATE REQUIREMENTS

This part is applicable if the UAO is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event the UAO expends \$750,000 or more in state financial assistance during its fiscal year, the UAO must have a State single or project-specific audit conducted in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. In determining the state financial assistance expended during its fiscal year, the UAO shall consider all sources of state financial assistance, including state financial assistance received from APD, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

In connection with the audit requirements addressed in the preceding paragraph, the UAO shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 or 10.650, Rules of the Auditor General.

The schedule of expenditures should disclose the expenditures by contract number for each contract with APD in effect during the audit period. The financial statements should disclose whether or not the matching requirement was met for each applicable contract. All questioned costs and liabilities due APD shall be fully disclosed in the audit report package with reference to the specific contract number.

2. If the UAO expends less than \$750,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event the UAO expends less than \$750,000 in state financial assistance during its fiscal year, the UAO agrees to provide certification to APD's Contract Administration and its Contract Manager that a single audit was not required. In the event that the UAO expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the UAO's resources obtained from other than State entities).
3. The State Projects Compliance Supplement is available at the following address:

<https://apps.fldfs.com/fsaa/compliance.aspx>

PART III: REPORT SUBMISSION

Any reports, management letters, or other information required to be submitted to APD pursuant to this contract shall be submitted within 180 days after the end of the UAO's fiscal year or within 30 days of the UAO's receipt of the audit report, whichever occurs first, directly to each of the following unless otherwise required by Florida Statutes:

- A. The Contract Manager for this contract at the email address specified in the Standard Contract.
- B. The Agency for Persons with Disabilities Contract Administration at the following email address: apd.fsaa@apdcares.org.

- C. Reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Part I of this Attachment shall be submitted, when required by § __.320(d), OMB Circular A-133, as revised, by or on behalf of the UAO directly to the Federal Audit Clearinghouse using the Federal Audit Clearinghouse's Internet Data Entry System at: <http://harvester.census.gov/fac/collect/ddeindex.html> and other Federal agencies and pass-through entities in accordance with § __.320(e) and (f), OMB Circular A-133, as revised.
- D. Copies of reporting packages required by Part II of this agreement shall be submitted by or on behalf of the UAO directly to the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450
Email address: flaudgen_localgovt@aud.state.fl.us

UAOs, when submitting audit report packages to Agencies for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit or for-profit organizations), Rules of the Auditor General, should include, when available, correspondence from the auditor indicating the date the audit report package was delivered to them. When such correspondence is not available, the date that the audit report package was delivered by the auditor to the UAO must be indicated in correspondence submitted to the Agency in accordance with Chapter 10.558(3) or Chapter 10.657(2), Rules of the Auditor General.

PART V: RECORD RETENTION

The UAO shall retain sufficient records demonstrating its compliance with the terms of this agreement for a period of six (6) years from the date the audit report is issued, and shall allow APD or its designee, Chief Financial Officer or Auditor General access to such records upon request. The UAO shall ensure that audit working papers are made available to APD, or its designee, Chief Financial Officer, or Auditor General upon request for a period of three years from the date the audit report is issued, unless extended in writing by APD.

PART VI: EXHIBITS

- Exhibit A: Post Award Notice
- Exhibit B: UAO Determination

EXHIBIT A
POST AWARD NOTICE
UAO: Florida Public Utilities

Contract: # LCY04

1. FEDERAL RESOURCES AWARDED TO THE UAO PURSUANT TO THIS CONTRACT
CONSIST OF THE FOLLOWING:

Federal Program 1: _____

CFDA#: _____

Title: Florida Public Utilities

Amount: \$2,085,000.00

Federal Program 2: _____

CFDA#: _____

Title: _____

Amount: \$ _____

TOTAL FEDERAL AWARDS \$2,085,000.00

COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED
PURSUANT TO THIS CONTRACT CAN BE FOUND IN OMB CIRCULAR A-133, APPENDIX B:
COMPLIANCE SUPPLEMENT AT: <http://www.whitehouse.gov/omb/circulars>

2. STATE RESOURCES AWARDED TO THE UAO PURSUANT TO THIS CONTRACT
CONSIST OF THE FOLLOWING:

Matching resources for federal program(s): _____

CFDA#: _____

Title: _____

Amount: \$ _____

State financial assistance subject to Sec. 215.97, Florida Statutes:

CSFA#: _____

Title: _____

Amount: \$ _____

TOTAL STATE FINANCIAL ASSISTANCE AWARDED PURSUANT TO SECTION 215.97,
FLORIDA STATUTES \$ _____

State funds reported above may include Maintenance of Effort (MOE) funding. This
occurs when a CFDA number is associated with State funds used to meet Federal
maintenance of effort requirements

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED
PURSUANT TO THIS CONTRACT CAN BE FOUND IN PART FOUR: STATE PROJECT
COMPLIANCE REQUIREMENTS OF THE FLORIDA SINGLE AUDIT ACT AT:
<https://apps.fldfs.com/fsaa/compliance.aspx>

EXHIBIT B
UAO DETERMINATION

PART I: AUDIT RELATIONSHIP DETERMINATION

UAOs who receive state or federal resources may or may not be subject to the audit requirements of OMB Circular A-133, as revised, and/or Section 215.97, Florida Statutes. UAOs who are determined to be UAOs or subUAOs of federal awards and/or state financial assistance may be subject to the audit requirements if the audit threshold requirements set forth in Part I and/or Part II of Attachment ___ are met. UAOs who have been determined to be vendors are not subject to the audit requirements of OMB Circular A-133, as revised, and/or Section 215.97, Florida Statutes. Regardless of whether the audit requirements are met, UAOs who have been determined to be UAOs or subUAOs of Federal awards and/or state financial assistance must comply with applicable programmatic and fiscal compliance requirements.

In accordance with Sec. 210 of OMB Circular A-133 and/or Rule 691-5.006, FAC, UAO has been determined to be:

- _____ Vendor not subject to OMB Circular A-133 and/or Section 215.97, Florida Statutes
- _____ UAO/Sub UAO subject to OMB Circular A-133 and/or Section 215.97, Florida Statutes
- _____ Exempt organization not subject to OMB Circular A-133 and/or Section 215.97, Florida Statutes. For Federal awards, for-profit organizations are exempt; for state financial assistance projects, public universities, community colleges, district school boards, branches of state (Florida) government, and charter schools are exempt. Exempt organizations must comply with all compliance requirements set forth within the contract or award document

NOTE: If a UAO is determined to be a UAO/subUAO of federal and or state financial assistance and has been approved by APD to subcontract, they must comply with Section 215.97(7), F.S., and Rule 691-5.006(2), FAC [state financial assistance] and §__ .400 OMB Circular A-133 [federal awards].

PART II: FISCAL COMPLIANCE REQUIREMENTS

FEDERAL AWARDS OR STATE MATCHING FUNDS ON FEDERAL AWARDS. UAOs who receive Federal awards, state MOE funds, or state matching funds on Federal awards and who are determined to be a UAO or subUAO, must comply with the following fiscal laws, rules and regulations:

STATES, LOCAL GOVERNMENTS AND INDIAN TRIBES MUST FOLLOW:

- 2 CFR 225 a/k/a OMB Circular A-87 – Cost Principles*
- OMB Circular A-102 – Administrative Requirements**
- OMB Circular A-133 – Audit Requirements
- Reference Guide for State Expenditures
- Other fiscal requirements set forth in program laws, rules and regulations

NON-PROFIT ORGANIZATIONS MUST FOLLOW:

- 2 CFR 230 a/k/a OMB Circular A-122 – Cost Principles*
- 2 CFR 215 a/k/a OMB Circular A-110 – Administrative Requirements
- OMB Circular A-133 – Audit Requirements
- Reference Guide for State Expenditures
- Other fiscal requirements set forth in program laws, rules and regulations

EDUCATIONAL INSTITUTIONS (EVEN IF A PART OF A STATE OR LOCAL GOVERNMENT) MUST FOLLOW:

2 CFR 220 a/k/a OMB Circular A-21 – Cost Principles*

2 CFR 215 a/k/a OMB Circular A-110 – Administrative Requirements

OMB Circular A-133 – Audit Requirements

Reference Guide for State Expenditures

Other fiscal requirements set forth in program laws, rules and regulations

*Some Federal programs may be exempted from compliance with the Cost Principles Circulars as noted in the OMB Circular A-133 Compliance Supplement, Appendix 1.

**For funding passed through U.S. Health and Human Services, 45 CFR 92; for funding passed through U.S. Department of Education, 34 CFR 80.

STATE FINANCIAL ASSISTANCE. UAOs who receive state financial assistance and who are determined to be a UAO/subUAO, must comply with the following fiscal laws, rules and regulations:

Section 215.97, Florida Statutes

Chapter 69I-5, Florida Administrative Code

State Projects Compliance Supplement

Reference Guide for State Expenditures

Other fiscal requirements set forth in program laws, rules and regulations

Revised 02/2017

Item 7

State of Florida



Public Service Commission

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

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

DATE: July 25, 2024

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (P. Kelley) *ETD*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20240094-GU – Joint petition by Peoples Gas System, Inc. and Florida Public Utilities Company for approval of Special Contract

AGENDA: 08/06/24 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On, May 5, 2024, Peoples Gas System (Peoples) and Florida Public Utilities Company (FPUC) (jointly, Petitioners) filed a joint petition for approval of a special contract (2024 Special Contract). Under the terms of the Special Contract, Peoples would provide FPUC with firm gas transportation service for a seven-month term commencing on September 1, 2024, and terminating on April 1, 2025. Peoples and FPUC own and operate natural gas facilities in Florida and are subject to the regulatory jurisdiction of the Commission pursuant to Section 366.06, Florida Statutes (F.S.).

In 2021, Peoples and FPUC had a transportation agreement (2021 Agreement) that did not require Commission approval because the terms and conditions did not deviate from Peoples' Commission-approved tariff. Under the 2021 Agreement, FPUC received service under Peoples' Interruptible Service (IS) rate schedule. Pursuant to the 2021 Agreement, Peoples transported

natural gas from the Florida Gas Transmission's (FGT) interstate pipeline at the PGS-Jacksonville main gate to the Radio Avenue Interconnect into the Callahan Pipeline. The Callahan Pipeline is a 16-inch steel pipeline that was constructed in 2019 to allow FPUC and Peoples to expand natural gas service in Nassau and Duval counties.

In September of 2022, Peoples and FPUC filed a joint petition for approval of a special contract (2022 Special Contract). Commission approval was required because the terms and conditions deviated from Peoples' Commission-approved tariff. The receipt points, delivery points, and points of delivery remained the same as in the 2021 transportation agreement. The Special Contract had a term from November 1, 2022, until June 1, 2024. The 2022 Special Contract extended the original contract to continue to allow Peoples to provide FPUC with firm natural gas service for a limited duration and obtain a fixed monthly reservation fee for the service provided. Upon the expiration of the existing contract in June, PGS ceased engaging in any obligations it had under that contract as FPUC has no rights to that capacity since the contract terminated and FPUC did not arrange a new contract with PGS in the interim. The Commission approved the Special Contract in Order No. PSC-2022-0374-PAA-GU.¹

During the evaluation of the petition, staff issued data requests to Peoples and FPUC. Responses from FPUC were received on June 27, 2024. Responses from Peoples were received on June 27, 2024. The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, and 366.06, F.S.

¹ Order No. PSC-2022-0374-PAA-GU, issued November 4, 2022, in Docket No. 20220159-GU, *In re: Petition for approved of special contract with Florida Public Utilities Company, by Peoples Gas System, Inc.*

Discussion of Issues

Issue 1: Should the Commission approved the Special Contract between Peoples and FPUC?

Recommendation: Yes, the Commission should approve the Special Contract between Peoples and FPUC as shown in Attachment A to the recommendation. The contract is reasonable because it facilitates the delivery of natural gas into Nassau County and benefits FPUC's and Peoples' general body of ratepayers. The contract should be effective September 1, 2024. (P. Kelley)

Staff Analysis: As discussed in the case background, the Commission approved a 2022 Special Contract between Peoples and FPUC. In May 2024, with the natural expiration of the 2022 Special Contract approaching, FPUC sought out Peoples for modification of the 2022 Special Contract which resulted in the proposed 2024 Special Contract. The term of the contract is for 7 months with a negotiated monthly charge for the reservation of firm capacity and transportations service on Peoples' distribution system and a daily maximum transportation quantity. The receipt points, delivery points, and points of delivery remained the same as in the 2022 Special Contract. Similarly with the 2022 Special Contract, FPUC will recover its payment to Peoples through the Purchased Gas Adjustment and from transportation customers that utilize the alternative supply in Nassau County. This contract would continue to generate revenues for Peoples, benefitting Peoples' general body of rate payers.

The purpose of the 2024 Special Contract remains the same as the prior Commission-approved 2022 Special Contract. Typically, FPUC obtains its gas from the Transco Zone 5 for its Nassau County operations. In response to staff's first data request, FPUC indicated that although the market has changed since the last transportation agreement, during the winter months it remains highly volatile. The agreement with PGS allows FPUC an alternative to Transco Zone 5 with an estimated savings of more than \$1 million to FPUC's customers and transportation customers over the 7-month term proposed in the 2024 Special Contract.²

The proposed 2024 Special Contract for a 7-month term is a much shorter time period than the 2022 Special Contract term of 19 months. FPUC indicated that based on the commodity prices it would see savings up to March 2025. For the time period after March 2025, FPUC will reassess forward commodity prices and may seek PGS for continued service. If the contract is not renewed, FPUC indicated it would return to using firm Southern Natural Gas Company (SONAT) capacity for its supply needs. SONAT is an interstate natural gas pipeline which brings gas from the Louisiana Gulf of Mexico coast to the southeastern United States, including Florida.

Conclusion

Based on the review of the petition and responses to staff's data requests, staff believes the proposed Special Contract is reasonable because it facilitates the delivery of natural gas into Nassau County and benefits FPUC's and Peoples' general body of ratepayers. Staff therefore recommends approval of the proposed Special Contract between Peoples and FPUC effective September 1, 2024.

² FPUC Responses to Staff's First Data Request, Document No. 07010-2024, Response No. 3

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 issuance of this order, this docket should be closed upon the issuance of a consummating order. (Brownless)

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

Docket No. 20240094-GU
Date: July 25, 2024

Exhibit A

EXHIBIT A
Proposed Gas Transportation Agreement
REDACTED

GAS TRANSPORTATION AGREEMENT

This Gas Transportation Agreement (the "Agreement") is made and entered into as of the ____ day of _____ 2024, by and between Peoples Gas System, Inc., a Florida corporation ("PGS"), and Florida Public Utilities Company, a Delaware corporation ("Shipper"), who hereby agree as follows:

ARTICLE I – DEFINITIONS

As used herein, the following terms shall have the meanings set forth below. Capitalized terms used herein, but not defined below, have the meanings given for such terms in PGS's FPSC Tariff.

"Business Day" means the Days Monday through Friday (excluding any federal banking holiday falling on any such Day).

"Callahan Intrastate Pipeline" means 16-inch steel pipeline with a Maximum Allowable Operating Pressure (MAOP) of at least 1250 psig extending from the outlet of the Southern Natural Gas Company's Cypress mainline measurement and flow control facilities in Nassau County Florida in the vicinity of the intersection of the Cypress Pipeline and Crawford Road (approximately 4.9 miles west of SR 200 on Crawford Road) to its terminus at a point of interconnection with the Fernandina Beach Line at or near the intersection of U.S. Highway 17 and Radio Avenue, together with necessary metering and other required facilities for Peninsula Pipeline Company, Inc. and SeaCoast Gas Transmission, L.L.C. to deliver gas to the Fernandina Beach Line.

"Day" means "Delivery Gas Day" as defined in FGTs FERC Tariff.

"FGT" means Florida Gas Transmission Company, LLC, a Delaware limited liability company, its successors, and assigns.

"FPSC" means the Florida Public Service Commission or any successor agency.

"Maximum Delivery Quantity" or "MDQ" means the maximum amount of Gas that PGS is obligated to cause to be delivered to Shipper pursuant to this Agreement on any Day at the PGS Delivery Point(s), and is stated in Appendix B.

"Maximum Transportation Quantity" or "MTQ" means the maximum amount of Gas that PGS shall be obligated to receive pursuant to this Agreement on any Day at the PGS Receipt Point(s), and is stated in Appendix A.

"Nomination" means a notice delivered by Shipper to PGS in the form specified in PGS's FPSC Tariff, specifying (in MMBtu) the quantity of Gas Shipper desires to purchase, or to have PGS receive, transport and redeliver, at the PGS Delivery Point(s).

"Nominate" means to deliver a completed Nomination.

"PGS-Callahan Pipeline Interconnect" means the inlet to the interconnection between the Gas distribution facilities of PGS and the Callahan Intrastate Pipeline.

"PGS Delivery Point(s)" means the point(s) listed in Appendix B.

"PGS Receipt Point(s)" means the point(s) of physical interconnection between Transporter and PGS listed in Appendix A.

"Supplier(s)" means person(s) (other than PGS) from which Shipper purchases Gas transported hereunder.

ARTICLE II – TERM

Section 2.1 Term. Subject to all other provisions, conditions, and limitations hereof (including, without limitation, Section 8.2), this Agreement shall be effective commencing on **September 1, 2024** (the "Effective Date") and shall continue until the beginning of the Day commencing on **April 1, 2025** (the "Termination Date").

ARTICLE III - SALES AND TRANSPORTATION SERVICE

Section 3.1 Services. PGS desires to sell and Shipper desires to purchase from PGS, from time to time, for use at the PGS-Callahan Pipeline Interconnect, Gas in quantities which, at Shipper's request, PGS may, in its sole discretion exercised in a not unduly discriminatory manner, agree to sell to Shipper. Shipper also engages PGS, and PGS accepts such engagement, to receive Gas for Shipper's account, up to the MTQ, at the PGS Receipt Point(s), and to cause an equivalent quantity, less the Retainage, to be redelivered to Shipper. Such sales and transportation shall be governed by PGS's FPSC Tariff and this Agreement.

Section 3.2 Telemetry and Other Required Equipment. [Intentionally Omitted].

ARTICLE IV – NOMINATIONS

Section 4.1 General. For each Day Shipper desires service hereunder, Shipper shall provide a Nomination to PGS pursuant to Sections 4.2 and/or 4.3 for each meter at the PGS-Callahan Pipeline Interconnect. The total quantity for the PGS-Callahan Pipeline Interconnect may be Nominated to a single meter. All Nominations shall be made to PGS at its web site (<https://custactivities.peoplesgas.com/>) provided that, in an emergency, a Nomination may be delivered via facsimile using the form set forth in PGS's FPSC Tariff. Quantities confirmed by PGS for delivery shall be Scheduled Quantities. If requested by Shipper, PGS will allow increases or decreases in Scheduled Quantities after the Nomination deadlines set forth in this article, if the same can be confirmed by PGS, Transporters and Suppliers, and can be accomplished without detriment to services then scheduled on such Day for PGS and other shippers. The maximum quantity PGS shall be obligated to make available for delivery to Shipper on any Day (which shall not exceed the MDQ) is the sum of (a) the Transportation Quantity and (b) the Sales Quantity established pursuant to this article.

Section 4.2 Nomination for Purchase. Unless otherwise agreed, Shipper shall Nominate Gas for purchase hereunder not less than seven (7) Business Days prior to the first Day of any Month in which Shipper desires to purchase Gas. Daily notices shall be given to PGS at least two (2) Business Days (but not less than forty-eight (48) hours) prior to the commencement of the Day on which Shipper desires delivery of the Gas. If Shipper has timely Nominated a quantity for a particular Month, PGS shall confirm to Shipper the quantity PGS will tender for purchase by Shipper (the "Sales Quantity," which shall also be a "Scheduled Quantity") no later than 5:00 p.m. Eastern Time on the Business Day immediately preceding each Day during such Month.

Section 4.3 Nomination for Transportation. Unless otherwise agreed, Shipper shall, for each Month, and each Day during such Month that Shipper seeks to change any aspect of any prior Nomination, notify PGS by providing a completed Nomination. Shipper's Nomination for Gas to be made available for delivery on the first Day of any Month shall be given by 10 a.m. on the second Business Day prior to the Day on which a nomination must be delivered to Transporter for receipt of deliveries at the PGS Receipt Point(s) on such Day. Daily Nominations for Gas to be made available for delivery other than on the first Day of a Month shall be given to PGS by 10 a.m. on the Business Day prior to the Day on which a nomination must be delivered to Transporter for the receipt of deliveries at the PGS Receipt Point(s) on such Day. The following nomination information is required for a valid nomination:

- a. The Shipper's account number under which service is being nominated;
- b. The receipt point location including applicable DRN and upstream pipeline name, upstream pipeline package ID, including Shipper's PGS account number, and quantity in Terms of Gas to be tendered at each PGS Receipt Point;
- c. The downstream delivery facility name, and quantity in Terms of Gas to be delivered for each PGS Shipper account;
- d. A beginning and ending date for each nomination;
- e. The upstream contract identifier;

Only nominations with clearly matching upstream Transporter identifiers (including Shipper's package ID and PGS account number) and downstream (PGS) identifiers will be scheduled. If Shipper or Shipper's Agent fails to comply with provisions (a) through (e) of this section, PGS may not schedule commencement of service or change a prior nomination.

Shipper understands that PGS is subject to FERC regulations that may require PGS to post certain Shipper information on a publicly accessible website. The submission by Shipper or Shipper's Agent of a required nomination shall constitute Shipper's authorization to PGS to publicly disclose any information (including but not limited to the information provided in such nomination) required by applicable law or regulation to be disclosed by PGS.

PGS shall confirm to Shipper the quantity PGS will make available for redelivery on such Day (the "Transportation Quantity," which shall also be a "Scheduled Quantity") no later than 5:00 p.m. Eastern Time on the Business Day immediately preceding such Day. PGS has no obligation to confirm a quantity Nominated by Shipper pursuant to this section greater than the quantity which, in PGS's reasonable judgment, equals the PGS-Callahan Pipeline Interconnect's likely consumption for a Day, less any Sales Quantities confirmed for delivery on such Day.

Section 4.4 Other Responsibilities. Shipper shall promptly notify PGS in writing of any change in the Sales Quantity or Transportation Quantity for any Day, and PGS will use commercially reasonable efforts to accept any such requested change as soon as practicable.

Section 4.5 Confirmation. If Transporter asks PGS to verify a nomination for Shipper's account, PGS shall confirm the lesser of such nomination, the Transportation Quantity or, in the case of non- or partial operation of the PGS-Callahan Pipeline Interconnect, that quantity which in PGS's reasonable judgment (after consultation with Shipper) is likely to be consumed at the PGS-Callahan Pipeline Interconnect. PGS has no obligation with respect to verification or rejection of quantities not requested by Shipper.

Section 4.6 Mutually Beneficial Transactions. Shipper recognizes that PGS maintains the operation and system integrity of the PGS distribution system on a daily basis, and that PGS, as the delivery point operator for its points of interconnection with interstate pipelines, is subject to

the rules and regulations of such pipelines with regard to operational flow rates, pressures and penalties. As such, PGS may from time to time need Shipper to vary its Nominated quantities of Gas to be delivered at the PGS Receipt Point(s). On such occasions, PGS may in its sole discretion request, and Shipper may agree to, a change in the quantity of Gas to be delivered for the account of Shipper at the PGS Receipt Point(s). No such change in the quantity of Gas to be delivered shall be made pursuant to this section without the consent of Shipper. Terms and conditions of any such transaction will be agreed upon between the parties at the time of the transaction and will be recorded and confirmed in writing within two Business Days of the transaction.

ARTICLE V – RESERVATION, USAGE AND OTHER CHARGES

Section 5.1 Reservation Charge. The parties acknowledge that the Gas transportation service to Shipper at the PGS Delivery Point contemplated by this Agreement requires access by Shipper, through this Agreement, to PGS distribution system capacity. Each Month during the term of this Agreement, Shipper shall pay to PGS for the reservation of firm capacity and the transportation service on the PGS distribution system contemplated by this Agreement the sum of [REDACTED].

Section 5.2 Usage Charge. In addition to the Monthly reservation charge provided by Section 5.1, each Month during the term of this Agreement, Shipper shall pay to PGS for the aggregate of all quantities delivered hereunder on each Day during the immediately preceding Month in excess of the MDQ an amount equal to the product of (i) such aggregate excess quantities (in Therms) and (ii) [REDACTED].

Section 5.3 Other Charges. The rates and charges prescribed in Section 5.1 shall be subject to taxes and fees as provided by law.

ARTICLE VI - BILLING AND PAYMENT

Section 6.1 Billing. PGS will bill Shipper each Month for all Actual Takes during the preceding Month, and for any other amounts due hereunder. If, during the preceding Month, PGS has purchased Gas from Shipper pursuant to an interruption or curtailment order, such bill shall show a credit for the estimated amount due Shipper for such purchase(s). If the estimated amount owed by PGS to Shipper exceeds the amount Shipper owes PGS, PGS shall pay Shipper the net amount estimated to be due Shipper at the time PGS bills Shipper.

Section 6.2 Payment. Shipper shall pay such bills, minus any disputed amounts, at the address specified in the invoice by the 20th Day following the date of PGS's mailing (as signified by the postmark) or other delivery of the bill. All sums not so paid by Shipper (or credited or paid by PGS) shall be considered delinquent.

Section 6.3 Billing Disputes. In the event of a bona fide billing dispute, Shipper or PGS, as the case may be, shall pay (or credit) to the other party all amounts not in dispute, and the parties shall negotiate in good faith to resolve the amount in dispute as soon as reasonably practicable. If a party has withheld payment (or credit) of a disputed amount, and the dispute is resolved, the non-prevailing party shall pay to the other party the amount determined to be due such other party, plus interest thereon at an annual rate equal to the prime interest rate of Citibank, N.A., New York, New York, plus one percent (1%), calculated on a daily basis from the date due until paid (or credited).

Section 6.4 Errors or Estimates. If an estimate is used to determine the amount due Shipper for purchases by PGS pursuant to an interruption or curtailment order, PGS shall make any adjustment necessary to reflect the actual amount due Shipper on account of such purchases in the next bill rendered to Shipper after determination of the actual amount due. An error in any bill, credit or payment shall be corrected in the next bill rendered after the error is confirmed by PGS.

ARTICLE VII - FAILURE TO MAKE PAYMENT

Section 7.1 Late Payment Charge. Charges for services due and rendered which are unpaid as of the past due date are subject to a Late Payment Charge of 1.5%, except the accounts of federal, state, and local governmental entities, agencies, and instrumentalities. A Late Payment Charge shall be applied to the accounts of federal, state, and local governmental entities, agencies, and instrumentalities at a rate no greater than allowed, and in a manner permitted by applicable law.

Section 7.2 Other Remedies. If Shipper fails to remedy a delinquency in any payment within five (5) Days after written notice thereof by PGS, PGS, in addition to any other remedy may, without incurring any liability to Shipper and without terminating this Agreement, suspend further deliveries to Shipper until the delinquent amount is paid, but PGS shall not do so if the failure to pay is the result of a bona fide billing dispute, and all undisputed amounts have been paid. If PGS fails to remedy a delinquency in providing a credit (or making payment) to Shipper for PGS purchases pursuant to an interruption or curtailment order within five (5) Days after Shipper's written notice thereof, Shipper, in addition to any other remedy, may, without incurring liability to PGS and without terminating this Agreement, suspend PGS's right to retain and purchase Shipper's Gas pursuant to an interruption or curtailment order, but Shipper shall not do so if PGS's failure to provide a credit (or make payment) is the result of a bona fide billing dispute, and all undisputed amounts have been credited or paid by PGS.

ARTICLE VIII – REGULATORY JURISDICTION

Section 8.1 FPSC Jurisdiction. The parties recognize and agree that the Gas transportation service contemplated by this Agreement is subject to regulation by the FPSC. Compliance by either party with any rule or order of the FPSC or any other federal, state, or local governmental authority acting under claim of jurisdiction issued before or after the Effective Date of this Agreement shall not constitute a breach hereof; provided, however, that each party shall use commercially reasonable efforts, consistent with such party's status as a regulated entity, to mitigate any materially adverse effect its compliance with the terms of any such rule or order would have on either party's rights under this Agreement.

Section 8.2 FPSC Approval. Notwithstanding any other provision set forth herein, this Agreement shall be of no force or effect until approved by a final non-appealable order of the FPSC. In the event the FPSC denies approval of this Agreement, the same shall be of no force or effect. In accordance with the foregoing, the parties shall file an appropriate joint petition with the FPSC seeking approval of this Agreement as a special contract.

ARTICLE IX – MISCELLANEOUS

Section 9.1 Assignment and Transfer. Neither party may assign this Agreement without the prior written consent of the other party (which shall not be unreasonably withheld) and the assignee's written assumption of the assigning party's obligations hereunder.

Section 9.2 Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of Florida and shall be subject to all applicable laws, rules and orders of any Federal, state or local governmental authority having jurisdiction over the parties, their facilities or the transactions contemplated. Venue for any action, at law or in equity, commenced by either party against the other and arising out of or in connection with this Agreement shall be in a court, located within the State of Florida, having jurisdiction.

Section 9.3 Severability. If any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

Section 9.4 Entire Agreement; Appendices. This Agreement sets forth the complete understanding of the parties as of the date first written above, and supersedes any and all prior negotiations, agreements and understandings with respect to the subject matter hereof. The appendices attached hereto are an integral part hereof. All capitalized terms used and not otherwise defined in the appendices shall have the meanings given to such terms herein.

Section 9.5 Waiver. No waiver of any of the provisions hereof shall be deemed to be a waiver of any other provision whether similar or not. No waiver shall constitute a continuing waiver. No waiver shall be binding on a party unless executed in writing by that party.

Section 9.6 Notices. (a) All notices and other communications hereunder shall be in writing and be deemed duly given on the date of delivery if delivered personally or by a recognized overnight delivery service or on the fifth day after mailing if mailed by first class United States mail, registered or certified, return receipt requested, postage prepaid, and properly addressed to the party as set forth below.

PGS:

Administrative Matters:

Peoples Gas System, Inc.

702 Franklin Street
P. O. Box 2562
Tampa, Florida 33601-2562
ATTN: Director, Gas Supply & Trading
P: (813) 228-4691
F: (813) 228-4922
Email: PGSGasTransportation@tecoenergy.com

Shipper:

Administrative Matters:

Florida Public Utilities Company

208 Wildlight Avenue
Yulee, Florida 32097
ATTN: Energy Logistics
P: (727) 270-6998
Email: cfggascontrol@chpk.com

Invoices and Payment:

Peoples Gas System, Inc.

702 Franklin Street
P. O. Box 2562
Tampa, Florida 33601-2562
ATTN: PGS Settlements
P: (813) 228-1524
F: (813) 228-4194
Email: PGSsettlements@tecoenergy.com

Invoices and Payment:

Florida Public Utilities Company

208 Wildlight Avenue
Yulee, Florida 32097
ATTN: Invoices
(Please do not mail invoices)
P: (352) 250-1648
Email: cfggascontrol@chpk.com

Peoples Gas System, Inc.
Exhibit A
Proposed Gas Transportation Agreement
Filed: May 30, 2024

Section 9.7 Amendments. This Agreement may not be amended except by an instrument in writing signed by the party against which enforcement of the amendment is sought. A change in (a) the place to which notices hereunder must be sent or (b) the individual designated as Contact Person shall not be deemed nor require an amendment hereof provided such change is communicated pursuant to Section 9.6. Further, the parties expressly acknowledge that the limitations on amendments to this Agreement set forth in this section shall not apply to or otherwise limit the effectiveness of amendments that are or may become necessary to comply with the requirements of, or are otherwise approved by, the FPSC or its successor agency or authority.

Section 9.8 Legal Fees. In the event of litigation between the parties hereto arising out of or in connection with this Agreement, then the reasonable attorneys' fees and costs of the party prevailing in such litigation shall be paid by the other party.

Peoples Gas System, Inc.
Exhibit A
Proposed Gas Transportation Agreement
Filed: May 30, 2024

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

PEOPLES GAS SYSTEM, Inc.

By: _____

Name: Lew Rutkin, Jr.

Title: VP, Gas Supply & Development

Date: _____

By: _____

Name: Timothy O'Connor

Title: VP, Safety, Ops & Sustainability

Date: _____

FLORIDA PUBLIC UTILITIES COMPANY

By: _____

Name: Daniel Noia

Title: Director, Energy Logistics

Date: _____

APPENDIX A - GAS TRANSPORTATION AGREEMENT

PGS RECEIPT POINT(S)

Maximum Transportation Quantity: [REDACTED] MMBtu per Day plus the Retainage

PGS will accept Gas from Shipper, or for its account, for transportation pursuant to this Agreement at the following point(s):

POI # 16151- PGS-Jacksonville

The above point(s) may be changed by PGS from time to time on written notice to Shipper.

APPENDIX B - GAS TRANSPORTATION AGREEMENT

PGS DELIVERY POINT(S)

Gas transported or sold pursuant to this Agreement shall be delivered by PGS to Shipper at the following point(s):

<u>NAME</u>	<u>MAXIMUM DELIVERY QUANTITY</u>
Meter at PGS-Callahan Pipeline Interconnect	[REDACTED] MMBtu per Day
Contract Number:	5200884205
Meter Numbers:	PGS-Callahan Pipeline Interconnect