

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 080562-WU

REQUEST FOR APPROVAL OF AMENDMENT
TO CONNECTION/TRANSFER SHEETS,
INCREASE IN RETURNED CHECK CHARGE,
AMENDMENT TO MISCELLANEOUS SERVICE
CHARGES, INCREASE IN METER
INSTALLATION CHARGES, AND
IMPOSITION OF NEW TAP-IN FEE, IN
MARION COUNTY, BY EAST MARION
SANITARY SYSTEMS, INC.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 13

COMMISSIONERS
PARTICIPATING: COMMISSIONER LISA POLAK EDGAR
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, November 22, 2011

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR, CRR
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P R O C E E D I N G S

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2 **COMMISSIONER EDGAR:** Good afternoon. This is
3 Commission Edgar, and with me Commissioner Julie Brown.
4 We are back on the record continuing the last item on
5 our Agenda Conference for today, Agenda Item No. 13,
6 which was set at a time certain in order to accommodate
7 customer participation by phone.

8 So to begin, I would like to ask our Staff to
9 introduce the item, then I would like to have OPC
10 introduce themselves for the record. And then we will
11 hear briefly from those that are participating by phone,
12 and we will go from there. So, Staff.

13 **MR. FLETCHER:** Commissioners, I'm Bart
14 Fletcher with Commission Staff.

15 Item 13 is Staff's recommendation to approve a
16 joint motion for the approval of a settlement agreement
17 between the utility, the Office of Public Counsel, and
18 six Intervenors. Today by phone we have about five
19 Intervenors that were signatories to this agreement. We
20 have two Intervenors that were not signatories
21 participating by phone, and also we have Mr. Herbert
22 Hein, the owner of East Marion Sanitary Systems, Inc.
23 Staff is available to answer any questions the
24 Commission may have.

25 **COMMISSIONER EDGAR:** Thank you. Mr. Reilly,

1 if you would identify yourself.

2 **MR. REILLY:** Yes, Commissioner Edgar,
3 Commissioner Brown. Steve Reilly with the Office of
4 Public Counsel, appearing on behalf of the general body
5 of ratepayers in this case, as well as those Intervenors
6 that did sign the settlement agreement. I believe the
7 other two, as he said, the other two Intervenors will be
8 representing themselves today, and I look forward to
9 sharing our view of the case.

10 **COMMISSIONER EDGAR:** Okay. Thank you. And we
11 will come back to you here in a moment.

12 What I would like to do now is I will call the
13 name of those that I understand are participating by
14 phone. And if you can just let me know that you are
15 with us and we will go through that to begin with. So,
16 Mr. Will?

17 **MR. WILL:** Yes, I'm here.

18 **COMMISSIONER EDGAR:** Thank you.

19 Ms. Mallon?

20 **MS. MALLON:** I'm with you.

21 **COMMISSIONER EDGAR:** Thank you.

22 Mr. Greco?

23 **MR. GRECO:** Here.

24 **COMMISSIONER EDGAR:** Thank you.

25 Ms. Turner?

1 MS. TURNER: Here.

2 COMMISSIONER EDGAR: Thank you.

3 Mr. Singel?

4 MR. SINGEL: Here.

5 COMMISSIONER EDGAR: Thank you.

6 Mr. Politte?

7 MR. POLITTE: Present.

8 COMMISSIONER EDGAR: Thank you.

9 Mr. Smith?

10 MR. SMITH: Here.

11 COMMISSIONER EDGAR: Thank you.

12 And Mr. Hein representing the utility?

13 MR. HEIN: Yes.

14 COMMISSIONER EDGAR: Thank you.

15 Mr. Reilly, I understand that before us is

16 Issue 1, which is a proposed settlement agreement.

17 Would you like to give us an overview of that?

18 MR. REILLY: I would be happy to. Just to
19 give you a little bit of background, OPC intervened in
20 this case with the hope of assisting the Intervenors,
21 but to do so in the most economical and cost-effective
22 way possible because of the small size of the utility
23 and the desire to avoid any possible future rate impacts
24 on the general body of ratepayers. Pursuing this
25 objective, our office encouraged and participated in

1 months and months of negotiations to find the most
2 cost-effective solution to the problem.

3 We settled on what we are calling the
4 grandfather installation, which is basically a single
5 1-inch line coming from the main to the home with a
6 double meter box to accommodate a 1-inch to 3/4-inch tee
7 that would send those two 3/4-inch lines respectively to
8 a potable water meter and separately to the irrigation
9 meter.

10 It is the opinion of the parties that the
11 settlement of this grand -- of putting in this
12 grandfather installation will accommodate the irrigation
13 needs of the Intervenors at a very affordable cost to
14 the utility, thereby reducing the future potential
15 impacts of rate impacts on the customers not receiving
16 these irrigation meters.

17 In addition to allowing these customers to get
18 their irrigation meters at the original tariffed
19 \$70 charge, there are a few other little special
20 provisions in this settlement agreement that, that
21 address Mr. Greco's previous payment of irrigation
22 services but not receiving them. So he's getting a full
23 credit for that, for those payments, as well as a time
24 credit for Mr. Singel, who has paid and received
25 irrigation services up to this point. So they

1 accommodated their particular needs.

2 But we do believe our settlement efforts were
3 largely successful, but in the end, two of the
4 Intervenors chose not to sign the settlement agreement.
5 However, OPC does appreciate that the Commission
6 committed to afford a hearing for those two Intervenors
7 to give them an opportunity to make their case, to
8 receive the irrigation meters at the original cost, but
9 without committing to the time of service, which was
10 part of the consideration of the settlement agreement.

11 But in short, we do support Staff's
12 recommendation, which approves the settlement agreement,
13 while preserving the due process rights of these two
14 Intervenors who chose not to sign.

15 I'm available for questions.

16 **COMMISSIONER EDGAR:** Thank you, Mr. Reilly.

17 Commissioner Brown, do you have any questions
18 regarding the settlement agreement?

19 **COMMISSIONER BROWN:** No.

20 **COMMISSIONER EDGAR:** Okay. Thank you.

21 As with any settlement, I recognize that it
22 probably is inherent to it to have some compromise, and
23 there certainly was give and take during the
24 discussions. And it is my understanding, as Mr. Reilly
25 has, and our Staff has described to us, that the East

1 Marion utility represented by Mr. Hein and customers
2 Greco, Turner, Singel, Politte, and Smith have come to
3 this agreement that is before the Commission for
4 consideration and potential approval today.

5 So with that, I would like to turn first to
6 those customers who have agreed to the settlement. Are
7 there any brief comments that you would like to share
8 with us? And if so, please identify yourself. Okay.
9 Not at this time.

10 Mr. Hein, any comments that you would like to
11 share with us?

12 **MR. HEIN:** No.

13 **COMMISSIONER EDGAR:** Okay. Then I understand
14 Mr. Will and Ms. Mallon, did you have brief comments
15 that you wanted to make at this time?

16 **MR. WILL:** Yes.

17 **MS. MALLON:** Yes.

18 **COMMISSIONER EDGAR:** Okay. Then if you would
19 identify yourself, and we will be glad to listen.

20 **MR. WILL:** Okay. Great. My name is Terry
21 Will, along with Millie Mallon. We're here in the
22 subdivision. Both Commissioners Edgar and Ms. Brown,
23 I'd like to address all of these comments directly to
24 you folks. And if anybody would care to take notes, I
25 would appreciate it if they would. And then at the end

1 of, at the end of what I have to say, if you could ask
2 me any questions, I'd be glad to answer.

3 **COMMISSIONER EDGAR:** Okay. That sounds good.
4 We will be listening. Go right ahead.

5 **MR. WILL:** Great. All of my comments are
6 coming from the document that was entitled Public
7 Service Commission Memorandum, dated November 9th of
8 this year. And if I could reference, the pages are
9 marked with the exception of number one, it starts out
10 with page 2. If I could direct you to page 2 of the
11 document. hopefully you have it there.

12 **COMMISSIONER EDGAR:** Okay. And let me just
13 check with our Staff. Am I correct that the document
14 that Mr. Will is referring to is the document that we
15 have headed as Settlement Agreement dated November 9th
16 at the top?

17 **MS. BENNETT:** I believe he's referring to the
18 recommendation that recommends approving the settlement
19 agreement. So it would be the recommendation.

20 **COMMISSIONER EDGAR:** Okay. Well, I have both
21 of those, so go right ahead.

22 **MR. WILL:** Great. If I could direct your
23 attention to page 2, paragraph 3. It clearly states
24 that the Commission has ordered that a customer who
25 requested an irrigation meter from East Marion on or

1 before April 7th of 2009 shall receive the meter and
2 they'll only be charged a \$70 rate. It makes no mention
3 whatsoever of the, of the attached A. Commissioners,
4 that will be the last page hopefully on your document
5 that refers to a drawing, page 19. That is Attachment
6 A. I'll be referring to that one several times. And
7 it's also nicknamed the grandfather, the grandfather
8 device, and more commonly referred to as the Mickey
9 Mouse device. So that's on page 2. Then I refer to
10 page, refer you to Page 5.

11 **COMMISSIONER EDGAR:** We're there.

12 **MR. WILL:** Okay. Page 5, paragraph 3 says
13 each Intervenor must pay \$70 in advance for the meter.
14 And then paragraph 4, and it says for a period -- that
15 we would be challenged (phonetic) for a period of 36
16 months. And if I could refer you to page 7, paragraph 3
17 of that same document, it states in Rules 25-30-325 of
18 the FAC entitled "Termination of Service by Customer,"
19 it doesn't specifically call out a time, but it does say
20 a reasonable notice of, of discontinued. A reasonable
21 notice to me, and hopefully to you, would be in the
22 neighborhood of perhaps two weeks or maybe even a month
23 that I might stop my services. It certainly under no
24 condition would be three years. And so that violates
25 the Rule 25-30-325 of the FAC.

1 **COMMISSIONER EDGAR:** Okay. Mr. Will, let me
2 stop you right there and ask you a question. As I
3 stated very briefly a few moments ago, what is before us
4 is a settlement agreement that has been entered into by
5 the utility and by five of the other customers. And by
6 its nature, a settlement agreement does generally
7 represent some compromise. And I understand that, as is
8 your right, you have decided not to enter into that
9 agreement and whatever compromises it may represent to
10 you. So the item that is before us is the settlement
11 agreement, which you have declined to sign.

12 **MR. WILL:** Well, I declined to sign, both
13 Ms. Mallon and I have both declined because of safety
14 reasons, and I'd like to talk to that.

15 **COMMISSIONER EDGAR:** I'm sorry. Did you say
16 safety?

17 **MR. WILL:** Safety. Safety reasons.

18 **COMMISSIONER EDGAR:** Safety. Okay. If you
19 would go on on that point, please.

20 **MR. WILL:** Okay. I spoke with Marion County
21 and their water and wastewater treatment engineering
22 staff, and I presented this document to them and said,
23 "This is an irrigation meter." And some questions they
24 had for me was what kind of controlling device is going
25 to go beyond this meter? And they were, they were

1 vitally concerned, and their bottom line was that it is
2 a very unsafe installation because the pressure dropped.

3 What happened is, Commissioners Edgar and
4 Ms. Brown, your little finger will not fit in the pipe
5 that it will be supplied to both the home and the
6 irrigation. And the example that was cited to me by the
7 engineering department is primarily if you hooked up
8 irrigation to your yard and then attempted to
9 coincidentally take a shower at the same time, your
10 pressure would be at, at a critical point such that the
11 barnacles that grow in every system would, would fleck
12 (phonetic), they'd fleck, the bacteria releases and it
13 blows into the home, and this can happen and then not
14 happen. So to my knowledge there has never been any
15 testing of this device. This device is not accepted by
16 standard utilities, and that is our, that is our
17 argument.

18 We would love to have, and it was our
19 intention all, all along to have this meter. And -- but
20 if it's not safe, and that's our position, both Millie
21 and my position, and I'm sure that the other Intervenors
22 would have some concerns about their family and wives
23 and husbands and grandchildren that come to their home.
24 And if I'm watering my yard and my granddaughter takes a
25 shower (phonetic) and has a problem, then I've got a

1 problem. That's our main concern.

2 And particularly when the engineering staff
3 says that they would never consider an application like
4 this because of the line size and because it parasites
5 off of a main line. They will never parasite off of a
6 main line. It has to be a regular tap-in. And that was
7 my reference to page 2, paragraph 3. The Commission
8 says anybody that signed up for a meter before that
9 deadline was entitled to a meter. And at \$70, I'm not
10 concerned about that. I'm concerned about the safety.
11 I want a regular tap-in as noted in, on page 7,
12 paragraph 4 or paragraph 5, where it says that the cost
13 is \$195, and then it's short, medium, and long for 14,
14 18, or \$2,600. That's the kind of installation that I
15 want. And I believe that's the kind of installation
16 that Millie wants. That's our vital concerns,
17 Commissioners.

18 **COMMISSIONER EDGAR:** Okay. Thank you,
19 Mr. Will. Let me pause here for a moment and pose a
20 question to our Staff. And if, if I have this a little
21 wrong, please feel free to correct me, of course.

22 But my understanding from what I'm hearing
23 from Mr. Will is that for, for him and for Ms. Mallon,
24 that the type of irrigation meter that they initially
25 requested, he has a concern is not the same as or as

1 good as, excuse me, the irrigation meter that would be
2 installed under the provisions of the settlement
3 agreement before us. Could you speak to that, please,
4 Mr. Fletcher?

5 **MR. FLETCHER:** Yes. And Tom Walden can
6 correct me if I'm wrong. The -- on page 19 of the rec,
7 it was the -- the diagram that you see is the, what we
8 call the grandfather installation. That's how the
9 utility was performing the installations in the past.
10 Prior to the Commission approving the tap-in charges at
11 the, its April 2009 Agenda Conference that you see on
12 page 7, it's in the third paragraph, last sentence, the
13 new configuration, if you will, would include either a
14 short, long, or extra long irrigation service line. So
15 there is a difference between what was approved at that
16 April 2009 Agenda Conference versus the grandfather
17 configuration, if you will, that you, that is depicted
18 on page 19.

19 **COMMISSIONER EDGAR:** Thank you. Very helpful
20 for me.

21 Mr. Reilly, as the representative of the
22 remaining customers that have signed on to the
23 settlement agreement, can you speak to that point?

24 **MR. REILLY:** I would be happy to. I think
25 that -- I'd almost propose an order, let the utility

1 represent what has happened and what this, you know,
2 grandfather installation provides. Likewise, I do know
3 there are several customers who have had personal
4 experience with the grandfather installation, both as,
5 with the 3/4-inch line going to, wide to two 3/4-inch
6 which they have experience on how that has performed in
7 terms of pressure and safety, but I think Mr. Greco,
8 who's in the business of, of supplying equipment to
9 utilities has some things to add too. So maybe in that
10 order, and I'd be happy to follow up as a third
11 spokesman, if everything is not covered.

12 **COMMISSIONER EDGAR:** Okay. Mr. Hein, this is
13 Commissioner Edgar. Mr. Hein, do you have any comments
14 to share on this point?

15 **MR. HEIN:** I do. I understand Mr. Will's
16 concerns; however, they're unfounded. And his
17 representation that a 3/4-inch line is smaller than your
18 little finger is not accurate.

19 We have two different types of installations
20 currently in the development, and neither one of them
21 have created a problem, nor does the water pressure drop
22 below acceptable or safety standards.

23 And so there's -- you know, the safety concern
24 that Mr. Will cites doesn't change. The grandfather
25 installation that the customers and the utility have

1 entered into is adequate and is safe and will perform
2 the way it's supposed to.

3 **COMMISSIONER EDGAR:** Thank you.

4 Mr. Greco.

5 **MR. GRECO:** Yes, ma'am.

6 **MR. WILL:** Terry Will. Could I rebut that,
7 please?

8 Commissioner, this is Terry Will. Could I
9 rebut that, please?

10 **COMMISSIONER EDGAR:** Not yet, Mr. Will. Hold
11 on. I'll come back to you.

12 **MR. WILL:** Thank you.

13 **COMMISSIONER EDGAR:** Mr. Greco?

14 **MR. GRECO:** Yes, ma'am. My understanding is
15 in discussions with Mr. Hein both the meters are the
16 same. Whether they're water or irrigation, the meters
17 are identical.

18 The -- Mr. Hein has also instituted that after
19 the irrigation meter, there has to be some kind of a
20 backflow device put on the lines. And the existing
21 irrigation meters that are installed have a backflow
22 device in it, which should stop any foreign objects from
23 getting back in the line after that device.

24 I live nextdoor to Mr. Singel and I live
25 downstream from him. He has an irrigation system and

1 his meter is installed and he uses it and I've never
2 experienced any loss of pressure. And directly across
3 the street is an existing homeowner who has an
4 irrigation meter and also an irrigation line directly
5 across the street. So if I was -- and this all comes
6 off the same line and I'm downstream from them. So if
7 I'm downstream and those are running, I have not ever
8 experienced any low pressure.

9 **COMMISSIONER EDGAR:** Thank you. A question,
10 Mr. Reilly, for you. If, for discussion purposes, if
11 any of the customers who have signed on to the
12 settlement agreement were to have problems over time
13 similar to what Mr. Will has described as potential or
14 to the degree that they are simply dissatisfied with the
15 service, what would be the option available to them?

16 **MR. REILLY:** I would guess it would be the
17 subject of a complaint to the PSC through their normal
18 processes. And if it was found to be, have merit, I
19 guess it would be one of those issues that the company
20 would have to come up with a solution to, and then we
21 could have some of those rate impacts that, that I've
22 worked very hard to try to avoid.

23 It has really been -- and we didn't want to
24 embark on this if we were going to create that
25 situation. And just to give you a little more

1 background about the grandfather installation, some --
2 as he said, there were two different forms right now.
3 We have, and I think Mr. Smith may want to weigh in on
4 this too because he has personal experience on his
5 particular 3/4-inch, going to a 3/4-inch; whereas, once
6 the grandfather installation has been approved, even
7 those are going to be changed out to 1-inch to 3/4-inch.
8 So although he's experienced no problems in the past,
9 his situation is actually going to improve. So we fully
10 expect to not have a problem. But as you say, if the
11 unexpected does occur, then that's one of those type of
12 utility issues we'll all have to come back and
13 readdress. But, you know --

14 **COMMISSIONER EDGAR:** Or perhaps the utility
15 would be able to handle it prior to coming here.

16 **MR. REILLY:** That's right.

17 **COMMISSIONER EDGAR:** Which would be the
18 normal, normal course for any customer with any concern.

19 **MR. REILLY:** Exactly. But, but all the
20 evidence we have is -- certainly the suggestion of
21 safety is, is unfounded because we will have, in fact,
22 the law requires the backflow prevention device any time
23 you have it on the -- and it's to be really maintained
24 by the customer. And it's generally to be annually
25 inspected to make sure that it's properly functioning.

1 So there is no -- even if the pressure drops down
2 dramatically, you don't introduce into the system --
3 because of the nature of an irrigation system, it's
4 coming in contact with soils and so forth, it's just
5 required. So I see that as being, certainly addressing
6 that issue.

7 But the practical pressure issue shouldn't
8 exist, and even won't especially exist because the truth
9 of the matter is most of the time when you're
10 irrigating, you really set it up in the early morning
11 hours. You don't even really set it up generally in the
12 times arguably when showers and all these things are
13 happening. But we didn't want to have that kind of a
14 standard. We wanted to really be able to have it zone
15 by zone occurring while you're having normal water use
16 in the house. And I guess I'll shut up at this point
17 and maybe let a couple of other customers weigh in on
18 their personal experience.

19 I know, I think, Mr. Smith, if you're
20 available, and I think Mr. Singel has had some
21 experience too.

22 **COMMISSIONER EDGAR:** Let me, let me frame it
23 this way. As I see it, the issue before us is the
24 settlement agreement. If we were to proceed to hearing,
25 then there would be a process for issue identification,

1 evidence, personal testimony, et cetera. However, my
2 understanding of the posture that we are in is a
3 settlement agreement has been entered into by the
4 utility and by five customers because they deemed that
5 to be in their best interest. So I would like to stick
6 to the settlement agreement. If indeed we are put into
7 a posture of proceeding to hearing, then we will, of
8 course, follow through due process and make sure that
9 all of those steps are accommodated.

10 So I would like to stick to the settlement
11 agreement at the moment because that is the issue that
12 is before us. And so I would ask again, to give you
13 full opportunity, if any of the customers, Greco,
14 Turner, Singel, Politte, or Smith would like to make a
15 final comment or brief comment about the settlement
16 agreement and your decision to sign that at this time to
17 represent your interests, this would be your chance.
18 Okay. I'm going to take that as no additional concerns.

19 Mr. Will, we do have, and Ms. Mallon, before
20 us is a vote on whether to approve the settlement
21 agreement that you have, as is your right, determined is
22 not in your best interest at this time to enter into.
23 Before we take up the matter of the settlement
24 agreement, do you have a closing comment on that point?

25 **MR. WILL:** Oh, yes, I certainly do.

1 Commissioners, please, I'm not a very good
2 public, not a very good public speaker, but I'd like to
3 say this about that. Everybody that I've heard is
4 all -- they're in favor, in their best interest that
5 they settle this thing. But I'm, I'm convinced, I'm
6 totally convinced, because I talk with impartial people
7 regarding this, this grandfather Exhibit A, it's wrong
8 and it's dangerous. And I've taken a piece of 3/4-inch
9 pipe and I can't put my little finger. So Mr. Hein has
10 given you some misinformation, Mr. Reilly is giving you
11 some misinformation, and they're all, they all want to
12 close this. They've all got, they've got an agenda to
13 meet, be it financial or be it just clearing the books.

14 I am vitally concerned, and so is Ms. Mallon.
15 She's shaking her head and we're going crazy here not
16 believing what we're hearing. At least we need to do
17 some studies because there's no control here. Of course
18 there's a backflow device. One of the people that are
19 in the know here that talked about pressure drop, but
20 they talked about their neighbor's pressure drop and the
21 nextdoor neighbor and across the street pressure drop.
22 That has nothing to do with the individual that is
23 reduced down to 3/4-inch. You're getting a 3/4-inch
24 supply and there's no control of the 3/4-inch supply. I
25 submit to you that you could turn on an irrigation

1 system in such a way that you could deplete the total
2 pressure and turn water on in your house and it wouldn't
3 run at all because the demand of the sprinkler system
4 would require all the water that's being pushed through
5 the 3/4-inch pipe.

6 I am vitally concerned about bacteria release.
7 And we at least, Commissioners, please, at least set up
8 some kind of parameters so we can all know that this is
9 safe or all know that it is not safe. I can't, I can't
10 speak enough about this, and that's why we have fought
11 this for two years.

12 I, I, I looked into this carefully, not
13 carefully enough, until I talked to some real engineers
14 who do this for a living in the county here and also in
15 Lake County. I've consulted three other engineers that
16 are in this field, working in this field, and they say
17 that this installation is dangerous.

18 Please, I'll ask you one more time, at least
19 set up some kind of testing by a legitimate company that
20 can test for pressure. There is no, there is no, no way
21 of anybody knowing how much demand that I am going to
22 put on the 3/4-inch line. And I could deplete the water
23 from my house by my irrigation system, and that's a
24 problem that no engineer that's doing this for a living
25 would install this kind because of the danger of

1 bacteria getting into your system by a pressure drop.

2 I, I know that I've repeated myself several
3 times and I've said that I'm not very good at this, but,
4 please, Commissioners, consider what I've had to say and
5 don't just overlook it. Again, I don't speak very well,
6 but I hope I'm making my point that the concerns that we
7 have here are vital. Please.

8 **COMMISSIONER EDGAR:** Mr. Will, thank you.

9 Thank for your comments, and no worries at all. I
10 absolutely recognize and appreciate that you have strong
11 concerns and that you feel passionate about it, and
12 respect your, your decisions to do what's best for you
13 and for your property.

14 At this point, let me see if Commissioner
15 Brown has a comment or a question.

16 **COMMISSIONER BROWN:** I do. I have a comment,
17 not a question. And I appreciate hearing from the
18 customers, including Mr. Will, and I wanted to see if
19 Ms. Mallon wanted to -- if Mr. Will's comments addressed
20 your issue, Ms. Mallon?

21 **MS. MALLON:** Yeah. Hi. This is Millie
22 Mallon. I'm in total agreement with Mr. Will. I worry
23 about this system as well. And I would like some
24 studies done for further investigation of these, of this
25 irrigation system. I want the new system put in. I

1 don't want this grandfathered into this old, old
2 irrigation system. I want the new system in. And I
3 think that has been demanded all along.

4 Also, you know, we talked about this contract
5 of 36 months. I'm really uncomfortable with that. And
6 it also says in the contract that people apparently deny
7 that it's a contract, but it says that, you know, after
8 the meter has been installed or reinstalled, or
9 Intervenor dies or sells the property being served by
10 the meter, whichever occurs first. I'm a little --

11 **COMMISSIONER BROWN:** I'm sorry. We're having
12 a hard time hearing you. You're -- there's a little bit
13 of feedback.

14 **MS. MALLON:** Okay. I'm on page 5.

15 (Technical difficulties.)

16 Hello?

17 **UNIDENTIFIED SPEAKER:** I'm having a real hard
18 time understanding her also. Is she on a speakerphone?

19 **COMMISSIONER EDGAR:** I understand. We're,
20 we're, you know, obviously dealing with multiple lines.
21 And just work with us and we will get through it.

22 So let me make sure, Mr. Will and Ms. Mallon,
23 are you still with us?

24 **MS. MALLON:** Yes, I am.

25 **COMMISSIONER EDGAR:** Okay. Ms. Mallon, if you

1 would finish, go ahead and conclude your comments in
2 response to Commissioner Brown, and maybe slow down and
3 speak directly into the phone for us.

4 **MS. MALLON:** Okay. You know, to test the
5 system, I think it's going to take a little bit more
6 than that. I think to go according to a recommendation
7 from a company that, you know, knows what they're
8 talking about and knows what we need out here, and not
9 by anybody who has a personal interest in this kind of
10 installation.

11 The last thing I want to say is the
12 Intervenor, you know, this contract for 36 months, I'm
13 suspect of that 36-month contract. The contract, you
14 know, you talk about compromise, but I don't see
15 compromise here. I see, you know, kind of a catch-22.
16 It says on page 5 in paragraph 4 that this will be
17 installed, and/or until the Intervenor dies or sells his
18 property being served by the meter, whichever occurs
19 first. That's a very uncomfortable statement. And I
20 don't see that the people that have had the irrigation
21 meters (phonetic) put in here, they have not had to sign
22 any kind of a contract for 36 months, and I don't see
23 where we should have to. What makes us any different
24 from the original people without irrigation meters? It
25 should all be the same. And that's really all I have to

1 say. I think the meters should be investigated though,
2 absolutely.

3 **COMMISSIONER BROWN:** Thank you for your input.
4 And I'm prepared to address the issue before us, which
5 is the settlement agreement with those signatories who
6 have intervened. And I've had -- I'm sorry.

7 **MR. REILLY:** Go ahead. I was just going to
8 respond to their safety issues, if that's okay.

9 **COMMISSIONER BROWN:** Please.

10 **MR. REILLY:** One thing I can give some
11 assurance to the customers on the issue of safety is
12 there is -- this is a public supply water system and it
13 is subject to the Florida Department of Environmental
14 Protection. And it is their task and it is their
15 statutory duty to assure that the water supply is in
16 fact safe and that backflow prevention is, is in place
17 and that there is not an issue.

18 So there is recourse, there is protection of
19 this. So it's not just, you know, some settlement
20 agreement that's going to impose some strange, you know,
21 configuration that's going to jeopardize their water
22 supply. There are protections in place. I just thought
23 I'd make that point.

24 **COMMISSIONER EDGAR:** Thank you.

25 Commissioner Brown.

1 **MR. WILL:** I'd just say that --

2 **COMMISSIONER EDGAR:** Excuse me. Hold on.

3 Hold on.

4 Commissioner Brown.

5 **COMMISSIONER BROWN:** Thank you. And thank
6 you, Mr. Reilly, for pointing those, those, or
7 addressing those concerns. And I have had a chance to
8 read the settlement agreement and I'm in support of it.
9 And I, you know, we've heard customers that are in
10 support of it, we've heard the Office of Public Counsel
11 in support of it.

12 And I would note, Mr. Will and Ms. Mallon, it
13 would be wonderful if the discussions with Mr. Hein
14 could come to a resolution, but obviously you have that
15 opportunity to have a full hearing. But I would
16 encourage you all to -- it doesn't sound like there's
17 going to be some type of resolution of your issues, but
18 I would still encourage you to make an effort to resolve
19 those outstanding issues.

20 And with that, I would support the Staff
21 recommendation on Issue 1 and Issue 2, and move.

22 **MR. POLITTE:** Commissioner?

23 **COMMISSIONER EDGAR:** Who's speaking?

24 **MR. POLITTE:** This is Mr. Politte.

25 **COMMISSIONER EDGAR:** Go right ahead.

1 **MR. POLITTE:** After hearing some of the
2 testimony or conversation with Mr. Will and Ms. Mallon,
3 I have some concern, and this is going to be directed
4 toward Mr. Hein. There is some -- and this may have
5 something to do with the pressure issue.

6 There are some leaks with the system at where
7 the chlorine tank is encompassed in the line. Are these
8 water leaks going to be taken care of prior to
9 installation of these meters?

10 **COMMISSIONER EDGAR:** Mr. Hein, can you respond
11 to Mr. Politte?

12 **MR. HEIN:** I am not aware of any water leaks.
13 If there are water leaks, then we would obviously want
14 to take care of them.

15 **COMMISSIONER EDGAR:** Thank you.

16 **MR. POLITTE:** I've spoken to -- I'm the
17 homeowners president at this time. I've spoken to the
18 gentleman that, that checks the water, and supposedly
19 you've already been notified, Mr. Hein.

20 **COMMISSIONER EDGAR:** Okay. Well, what I'm
21 going to do on that point is ask our Staff to follow up
22 with the utility, recognizing that this is a concern
23 that may have been expressed before, but that
24 information is not before me today. But if there is a
25 concern about leaks, you know, our Staff can follow up

1 with you, Mr. Politte, and with Mr. Hein, and see what
2 we can do to make sure that there is appropriate
3 follow-through.

4 With that, I'm going to say that it is my
5 understanding, to reiterate, that five customers working
6 with OPC have entered into a settlement agreement with
7 Mr. Hein to address the issues that were before the
8 Commission previously. That settlement agreement is
9 before us. And Commissioner Brown has shown her support
10 and I concur. So with that, we will approve the
11 settlement agreement that is before us, which will
12 dispense with Issue 1.

13 That brings us to Issue 2, which is basically
14 where does that leave us now? And my understanding,
15 and, Ms. Bennett, I will look to you, my understanding
16 is that leaves us with, again, the understanding that
17 Mr. Will and Ms. Mallon had concerns that they did not
18 believe that the settlement agreement covered, primarily
19 dealing with potential safety and pressure issues and
20 also the time period that the settlement agreement
21 covered. So that leaves us with these two Intervenors
22 who are still in the process with the protest that the
23 utility had filed. So, Ms. Bennett, what are our next
24 steps?

25 **MS. BENNETT:** Well, that means that because we

1 still have the protest to deal with as it relates to
2 Ms. Mallon and Mr. Will, that still needs to be set for
3 a hearing, unless the protest is withdrawn by the
4 utility.

5 So at this point, Staff has recommended that
6 the hearing be held in Tallahassee, unless the protest
7 is withdrawn, that the hearing be held in Tallahassee;
8 that the three remaining parties, that would be East
9 Marion, Ms. Mallon, and Mr. Will, be required to, within
10 21 days of the date of the order being issued, file a
11 statement with the Clerk acknowledging that they
12 understand the orders establishing procedure and the
13 procedural rules, 25-22 and 28.106, and that they are
14 willing to abide by those in this court like proceeding
15 in front of the Commission.

16 It does have some responsibilities on each
17 party who participates to present testimony, to
18 cross-examine witnesses, to finish the discovery that's
19 ongoing, to attend Prehearing Conferences, that type of
20 thing, and to attend these things in person here in
21 Tallahassee.

22 Staff would recommend that that statement
23 acknowledging those responsibilities be filed by all
24 three parties. And then with that being filed, again,
25 if the protest is not withdrawn, then we'll set, go

1 ahead and set it for a hearing. It's prehearing and
2 then hearing.

3 **COMMISSIONER EDGAR:** So with that, where we
4 are is that, Mr. Hein, you have a protest that is still
5 pending. We have two Intervenors. There is certainly
6 the option for the withdrawal of the protest or the
7 withdrawal of intervention for continued discussions,
8 which I would certainly urge, and Commissioner Brown has
9 urged as well.

10 If there is not an interest in a withdrawal of
11 the protest or intervention, then a statement needs to
12 be filed with our Commission Staff within 21 days of the
13 order, as has been described. Our Staff will be
14 available to provide any assistance in accomplishing
15 that, and I believe that that is what remains before us.
16 Commissioner Brown, anything further?

17 **COMMISSIONER BROWN:** I think that is correct.
18 And in order, I guess, to address Issue 2, I will make
19 the motion. Since all that is incorporated into our
20 Issue 2, I would move to approve Staff's recommendation
21 on Issue 2.

22 **COMMISSIONER EDGAR:** Thank you for that. And
23 I concur. I want to say thank you to Mr. Reilly, to all
24 the customers for their participation and dialogue. And
25 we are adjourned.

(Proceeding adjourned at 2:46 p.m.)

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STATE OF FLORIDA)
 :
COUNTY OF LEON)


CERTIFICATE OF REPORTER

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 21st day of December, 2011.



LINDA BOLES, RPR, CRR
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