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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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.	)	Docket No. 160101-WS

REBUTTAL TESTIMONY

OF

FRANK SEIDMAN

on behalf of

Utilities, Inc. of Florida

Q. Please state your, name profession and address.

A. My name is Frank Seidman. I am President of Management and Regulatory Consultants, Inc., consultants in the utility regulatory field. My address is 36 Yacht Club Dr., North Palm Beach, FL 33408.

Q. Have you previously presented testimony in this case?

A. Yes. I have previously presented direct testimony on behalf of the applicant, Utilities, Inc. of Florida (UIF).

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to respond to certain portions of the direct testimony of Office of Public Counsel witness Andrew T. Woodcock with regard to his determination of excess Unaccounted for Water (UAW), Inflow and Infiltration (I&I) and Used & Useful (U&U).

Q. Are you sponsoring any additional exhibits?

A. No, I am not.

<u>EXCESSIVE UNACCOUNTED FOR WATER</u>.

Q. Mr. Woodcock prepared an analysis of the Unaccounted for Water and found that ten of the Utility's systems have excess UAW. Do you agree with his results?

A. Yes and no. I compared his results to those I presented in the MFR's and they are virtually the same for all of the systems except for UIF Seminole – Ravenna Park et al. For that system, I found there to be no excess UAW.

Q. What caused the difference between your results?

A. During most of the test year, water was provided to Ravenna Park only. In December, 2015, the Crystal Lake system was tied in with that of Ravenna Park and both systems are now served by the Ravenna Park plant. In the MFR, I provided a restatement of Schedule F-1 where UAW is determined. That restatement showed the test year combining the gallons

pumped, sold and other uses for Ravenna Park and Crystal Lake. As a result the UAW dropped from 11.0% to 7.3% and the excess UAW dropped from 1.0% to zero.

Q. Mr. Woodcock stated that he deducted any UAW over the 10% threshold from his U&U calculations. Would you comment?

A. Yes. I would just point out that all of these water systems have previously been found to be 100% U&U. The excess U&U for each of these systems was taken into account, and it had no impact on the results. They are all still 100% U&U.

EXCESSIVE INFLOW & INFILTRATION

Q. Mr. Woodcock prepared an analysis of the Inflow and Infiltration and found that three systems exhibited excess I&I. Do you agree with his results?

A. I agree that all three had excess I&I. I will accept his results for the UIF Pasco-Wis Bar system, but differ with those for the Sandalhaven and UIF Seminole-Lincoln Heights systems. I believe his results are overstated for those systems. I would point out, however that the Wis-Bar system was subjected to large amounts of rain fall during the test year and this may have had an impact on the amount of inflow.

Q. Please explain why your results differ with regard to the Sandalhaven calculation?

A. Mr. Woodcock testified that for all of his I&I analyses he assumed that 80% of billed residential water and 90% of billed general service water would be returned to the wastewater system. That is the standard assumption used by this Commission in evaluating I&I. However, the Commission has recognized that all systems are not the same and in several cases, has made exceptions when the utility has provided a reasonable explanation for using different percent return flows. For Sandalhaven, based on their knowledge of the system, UIF personnel have determined that a 90% return for residential use and a 96% return for general service are more appropriate for this utility. Making these revisions, but still following Mr. Woodcock's methodology, results in a decrease in excess I&I from

8.37% to 1.76%.

Q. What is the basis for increasing the returned flows for Sandalhaven?

A. There is very little irrigation use by single family residences at Sandalhaven. In Docket No. 060285-SU, the Utility utilized 100% return of the billed wastewater, or capped, residential use. It was assumed that all capped gallons flowed back to the wastewater plant. In the instant case, total water gallons were used, rather than capped wastewater gallons, as a better indicator. In recognition of that, and of the minimal amount of irrigation used by Sandalhaven residential customers, a 90% return factor was used. Many of the multi-family units, which are accounted for as general service customers, have common irrigation systems and those flows do not come to Sandalhaven for treatment. Therefore a 96% return for general service is reasonable. In Docket No. 060285-SU, the staff did a calculation of I&I which was virtually identical to that presented by the Utility. That calculation is summarized at Attachment A of PSC Order No. 07-0865-PAA-SU and the total I&I and allowable I&I at lines 4.a) and c) agree with the Utility's exhibit in that order. In other words, the Commission accepted the Utility's conclusion of higher return percentages for Sandalhaven were reasonable. I have not seen any information to lead me to vary from that precedence.

Q. Please explain why your results differ with regard to the UIF-Seminole Lincoln Heights calculation?

A. In the case of Lincoln Heights, Mr. Woodcock also used the standard 80% and 90% return factors for residential and general service, respectively, even though there is support for higher amounts. As with Sandalhaven, the local characteristics of water use suggests that higher return level is warranted. The lots are smaller and some have their own irrigation systems. In Docket No. 060243-WS, the Utility proposed return levels of 84% and 100% for residential and general service use. The Commission agreed with the Utility's

observations and allowed 84% return for residential but reduced the general service return to 96% in Order No. PSC-07-0505.SC-WS. Those are the factors I utilized in this case for this system.

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Q. Is there any other reason for the difference in results for UIF-Seminole Lincoln Heights between your calculations and Mr. Woodcock's?

A. Yes. I believe Mr. Woodcock used the incorrect footage for gravity mains in his calculation. I deduced that from his summary of I&I calculations in his Exhibit ATW-3. The 1,248,051 gallons he allowed for infiltration equates to only 4,513.5 feet of 8" main. The correct footage is 6,018 feet. If the differences in return flows and the difference in gravity main footage are taken into account, the excess I&I would be 32.62% instead of the 37.41% he calculated.

PREPAID CONNECTIONS

Q. Mr. Woodcock takes exception to use of prepaid connections in determining U&U. Do you agree with him?

A. No, I do not. It appears that Mr. Woodcock believes that since there is no timing factor involved, they may never be served or be served within the five year allowed growth period they are speculative and should therefore not be recognized.

Q. In your opinion are prepaid connections speculative?

A. No. In fact they are the antithesis of speculation. If the Utility had simply taken the word of developers that their projects would be constructed and completed within a certain time frame and then planned and constructed treatment facilities or committed to purchased capacity on that basis, then that would be speculation. Rather than speculate, the Utility requires developers commit, by written agreement, to pay for the capacity in advance which they will require. That protects the Utility and the ratepayers by providing funding to

prudently build additional capacity without risk. In turn, the Utility commits to have that capacity available and that commitment is recognized by including the contracted capacity in the calculation of U&U.

Q. Has the Commission taken a position with regard to the recognition of prepaid connections?

A. Yes, it has. Mr. Woodcock acknowledged this in his testimony. Order No. PSC-160013-PAA-SU, recognized that prepaid connections place an obligation on the Utility and should be included in the U&U calculation. Even though the PAA Order was protested, it does not change the fact that the Commission has expressed its opinion. Prepaid connections specifically impact the evaluation of the Sandalhaven and Lake Utility Services systems, which I will address later in my rebuttal testimony.

BUILT-OUT SERVICE AREAS

Q. The Utility determined that several wastewater systems should be considered 100% U&U because they were built out, even though the calculated U&U percentages for those treatment plants were less than 100%. Mr. Woodcock takes exception to what he characterizes as a "blanket qualification." He then turns to the Commission's water U&U rule to evaluate these systems. Do you agree with him?

A. First, I did not use a blanket qualification. Each system was considered on its own merits. Second, I did not rely on the Commission's water rule, which is not applicable. I relied on the Commission's wastewater Rule 25-30.432, F.A.C., which includes among the factors the Commission will consider, "the extent to which the area served by the plant is built out." Unlike the water rule, the wastewater rule does not list the potential for expansion of the service territory as a factor to be considered. The Utility recommended that the Mid-County, Lake Placid, Labrador, Eagle Ridge and Crownwood systems should be considered 100% U&U because they are built out. Mr. Woodcock agreed that Eagle Ridge is built out,

but not the others. After further consideration, I no longer consider Lake Placid as 100% U&U, for reasons I will discuss.

Q. Would you please explain your basis for requesting a 100% build-out designation for these four systems?

A. Yes. I will address them individually.

Mid-County - The Mid-County system serves mixed residential single family homes, mobile homes, apartments and commercial areas along the US 19 corridor in the Dunedin area of Pinellas County. Its customers get their water from Pinellas County. It is a closed in service area with little, if any, room for growth within the service area. At one time, it served a substantial number of mobile home communities. About ten years ago, two mobile home parks were redeveloped and replaced with less dense housing and commercial developments. As this redevelopment occurred, the developer removed and replaced the poorly maintained manholes and mains that existed in the two mobile home parks. As a result, the Utility saw a reduction in I&I that freed up capacity to serve future growth and saw variance from the historical treated gallons as the usage characteristics of customers changed. The U&U calculated by the Utility during this period was as high as 97% in 2002 and as low as 74% in 2005. Since 2003, the Commission has never set the allowed U&U below 92%. In this case, the Utility calculated a U&U of 91.75%. The fluctuations are not necessarily indicative of changes in the number of ERCs alone but also changes in usage patterns. There will continue to be some growth in ERCs as more mobile home parks are redeveloped and there are some parcels available for new construction. But in spite of there being new customers, the lower density and continuing improvement in I&I as mobile homes are redeveloped has meant that these customers can continue to be served from the same wastewater plant. That is, what appears as new growth in customers has not resulted in increases in flow. Mid-County has been able to serve new customers by utilizing its

existing plant capacity, and even though the plant's U&U remains in the 90+ percent range, there are no plans to increase treatment capacity. It would not have any significant impact to increase U&U to 100% but it would serve to recognize that the Utility has, through prudent management, postponed any additional investment in capacity and allow it to earn on its total investment.

Labrador – the Labrador system serves a mobile home community and an RV resort. The only developable land within the service area is an 11.6 acre parcel. There is no activity to develop this area nor is there any expectation that there ever will be because the residents use it as a storage area for their RV's and boat trailers and have done so for many years. The issue of this parcel was addressed by the Commission in Order No. PSC-04-1281-PPA-WS, where the Commission concluded that this parcel was vacant and zoned as a future commercial site and rejected the Utility's position that the service area was built-out. Here we are thirteen years later, and there has been no effort to convert this storage site to other uses. There is no reasonable expectation that this parcel will be developed. The Labrador system should be designated as 100% U&U.

Crownwood - The Crownwood development is a group of quadraplexes. The plant was designed to serve just those quadraplexes, but the development's activity slowed and it was only partially developed. A portion of the Golden Hills area was served by a privately owned treatment facility. When it fell into disrepair, the owner, BFF, Inc., asked to be served by Crownwood. That made good use of a portion of the original plant capacity. As Mr. Woodcock pointed out, the service area is built out. That is all that is required to be considered under Commission Rule 30-432, F.A.C. Nevertheless, I would point out that the surrounding developed areas consist of large lots which are able to use, and do use, septic tanks. Any future development, and there is no indication that any would occur in our lifetimes, would be expected to be similarly large lots and they most likely will continue to

defer to septic tanks. Under the circumstance, Crownwood should be considered 100% U&U.

Lake Placid - The Lake Placid system was built by a developer to serve the Sun 'N Lakes Estates, a subdivision in Highlands County with approximately 150 homes and condominiums, a motel and golf and country club. The existing treatment plant was designed to serve the motel, country club and additional phased in sections of homes. This did not, and will not, occur because the remaining area for development was later designated as a scrub jay habitat which cannot be developed. However, the Lake Placid system also provides service within its service area to DeeAnne Estates and Village Del Mar and there is currently a Family Dollar Store under construction. Therefore, the utility is experiencing some growth and should not be considered 100% U&U. However, because of the after-the-fact environmental restrictions that severely limit the Utility's opportunity to grow in ERCs within its current service area, it is extremely unlikely that it will ever reach the level of grow anticipated when the plant was first built in 1969.

LAKE UTILITY SERVICES, INC. (LUSI)

Q. Would you please address the differences between Mr. Woodcock's determination of U&U for the LUSI wastewater plant and yours?

A. Yes. The approaches would be identical except that Mr. Woodcock has excluded the demand associated with 187 prepaid connections. As I have discussed previously, the Utility has the obligation to be prepared to serve prepaid connections. In the case of LUSI, the Utility is committed to providing an AADF of 280 gpd/ERC for each of the 187 connections. This is not an inflation of growth as Mr. Woodcock characterizes it. It is not included in the growth allowance and it is not speculative; it is a commitment recognized by the Commission and results in plant being 59% U&U rather than the 53% U&U determined by Mr. Woodcock.

SANDALHAVEN

Q. Would you please address the differences between Mr. Woodcock's determination of U&U for the Sandalhaven capacity purchased from the Englewood Water District (EWD) and yours?

A. Yes. Our basic methodologies are the same in that determination of U&U for the EWD purchases are treated the same as the determination of U&U for a treatment plant. They are based on the formula in Commission Rule 30.432. F.A.C. which measures test year flows plus growth less excess I&I against the treatment capacity. Our differences are not in the methodology, but in the application of that methodology. Just as with LUSI, Mr. Woodcock excludes the obligation to be prepared to serve prepaid connections. In addition he includes zero growth allowance. But he did adjust for excess I&I at what I consider an excessive amount because he understated return flows as previously discussed. The result is a U&U that is entirely unrealistic.

Q. What is wrong with Mr. Woodcock's application of the formula methodology?

A. He has utilized the formula in the rule as a simple mathematical exercise rather than as a means to determine used and useful. The formula is not an end in itself, and the results of its use need to be tested for reasonableness. This Utility acted to acquire capacity after an evaluation of existing demand, estimated future growth and firm commitments to the Utility for the need for capacity. The only element recognized by Mr. Woodcock is existing demand. He made no attempt to determine reasonable growth expectations and he excluded any obligation to meet the demand of those that had made a prepaid commitment. And on this basis he has made a simple mathematical computation that the purchased capacity is only 42.24% U&U.

Q. Why do you say that he made no attempt to determine reasonable growth expectations?

A. The information on growth is provided at Schedule F-10 of the Sandalhaven MFR and at face value shows a declining rate of growth in water gallons sold to the Sandalhaven customers. But this raw data was supplemented with ERC data going back to 2007 that showed a substantial average annual growth of 13% compared to the current five year annual average decline of 7.74%. In addition, the schedule gave an explanation of what likely caused the decline in total gallons while the gallons used by single family homes remained steady. Based on this information, it would have been reasonable to conclude that the projected growth is not simply zero.

Q. Would you address the issue of prepaid connections as they affect Sandalhaven?

A. Sandalhaven made arrangements to purchase 300,000 gpd of capacity from EWD. It did so because its own wastewater treatment plant could no longer be used in an environmentally acceptable manner. So why would a utility make such an investment based on its existing demand and a projected rate of growth that is subject to speculation? The answer is simple. It wouldn't. It would not have been prudent for Sandalhaven to make such an investment based on low demand and speculative growth information. But it was prudent to do so based on commitments from developers backed up by non-refundable prepayments of CIAC. This is a good example of prudent management, because it knows that regardless of when developments are completed and come on line, the Utility is covered. That is why the demand associated with the prepaid purchase of capacity must be recognized in determining U&U; to account for the demand that the Utility is obligated to serve. To ignore these connections in the U&U process would make contracting with developers an exercise in futility. The Utility would receive the money, incur the obligation and be penalized for it in the ratemaking process.

Q. After reviewing Mr. Woodcock's exhibits, did you find reason to amend your determination of U&U for Sandalhaven?

A. Yes. His Exhibit ATW-14, contains updated information, provided by the utility, showing that the amount of prepaid capacity not used is 160,930 gpd compared to 163,780 gpd shown on my MFR Schedule F-6. Also, as a result of reviewing his Exhibit ATW-3, I&I calculations, I discovered I had calculated the allowed inflow by estimating it as 10% of wastewater treated rather than of returned flows. The result is that rather than finding zero excess I&I, the correct amount is the 1.76% that I referred to previously.

Q. How does that impact your determination of U&U for the EWD purchases?

A. I had originally found the U&U to be 101%. With the corrections, I find it should be only 99% U&U.

Q. Would you please turn to Mr. Woodcock's determination of U&U for the primary force main? He has evaluated U&U on the same basis as he did the purchased EWD capacity, using Commission Rule 30.432. Do you agree?

A. No. First, Rule 30.432, F.A.C. does not apply to the U&U of mains. The Commission does not have a rule that applies to the U&U of mains. Second, the force main in question is not just any main, it is the manifolded main through which all Sandalhaven flows are transmitted to EWD for treatment and disposal. Third, it serves not only as a collector of flows within the service area, but a transmitter of flows to a location far outside of its service area.

Q. Is there any precedent for the Commission finding a manifold main to be 100% U&U?

A. Yes. In Docket No. 951056-WS, Order No. PSC-96-1338-FOF-WS, 11/7/1996, the Commission specifically recognized manifold mains as "those mains that carry the combined flow from all lift stations". The Commission found these mains to be 100% U&U.

Q. Why is the fact that the force main transmits flows outside the service area important?

A. Because, of the approximate 3.14 miles of force main that connects the Sandalhaven system

to the EWD system, nearly 45% is situated outside of the service area, not collecting flows but only transmitting them. Regardless of how the Commission decides to calculate U&U, that portion of the main located outside of the service area is 100% U&U.

Q. Mr. Woodcock calculated U&U for the master lift station structure and receiving well based on Commission Rule 25-30.432, F.A.C. Do you agree?

A. No. Realize that this "structure" is a concrete pit, which receives flows from collection mains and houses the lift station pumps. As with the force main, this is a one-time expenditure for a well of sufficient size to house three pumps. Two are currently in use. No reasonable utility is going to build a smaller well initially to house two pumps, and then enlarging it for the third pump. It should be considered 100% U&U.

Q. Finally, Mr. Woodcock calculated U&U for the pumping plant based on Commission Rule 25-30.432, F.A.C. Do you agree?

A. No. I do not believe that the rule should be applied. I continue to argue that this pumping plant is specifically designed to serve current demand, near term growth and the demand of prepaid connections and should be considered 100% U&U. Although I do not agree that Mr. Woodcock's methodology should be adopted, it should be pointed out that whereas he argues against using peak flows, there is precedent for the Commission to determine U&U for pumping station based on peak flows. The Commission did use a 3.0 peaking factor in determining the U&U of pumping plant in previously referenced Docket No. 951056-WS. On that basis alone, with no growth and no prepaid connections, the pumping plant would be 87% U&U rather than the 27% he calculated.

Q. Has Mr. Woodcock taken issue with the prudency of Sandalhaven's decision to purchase capacity from EWD or construct the force main and lift station?

A. No. In his testimony, he states that the decision to purchase capacity and construct the facilities was prudent at the time the decision was made.

Q. Has the Commission previously addressed the U&U of the purchases and construction of these facilities?

A. Yes. In Docket No. 150102-SU, Order No. PSC-16-0013-PAA-SU, 1/6/2016, the Commission found that the purchases from EWD were 91.4% U&U, and the force main and lift station were both 93% U&U. Even though that PAA Order was challenged, and the issue of U&U was deferred to this docket, weight must be given to the Commission's consideration unless new evidence is presented in this case to bring that decision into question. No new evidence has been presented to support such a revision

Q. Mr. Woodcock indicated that in a prior case before the Charlotte County Commission, the County agreed with his position. Was this Commission aware of that proceeding when it issued Order No. PSC-16-0013-PAA-SU?

A. Yes, it was. And it apparently was not swayed by that decision. In fact, the Commission ignored all aspects of that proceeding.

Q. In Order No. PSC-16-0013-PAA-SU, did the Commission address the engineering aspects of the design of the force main?

A. Yes. It agreed that physical properties of the force main necessitated its sizing to meet expected peak flows to avoid line rupture, pump failure and equipment damage and/or loss of service.

Q. In the settlement of that case the parties agreed that the issue of U&U would have no precedential value and could be raised in any future case. That issue has been raised in this case. In your opinion, has OPC presented any new evidence that would result in a change to the Commission's conclusion in that last case?

A. No. Nothing has been presented that should persuade the Commission to determine U&U percentages to be less than the 91.4 and 93% for the EWD purchased capacity and force main/lift station, respectively.

Q. Do you have any other remarks?

A. Yes. The determination of U&U is an aid in determining that portion of the utility's investment that is serving the public and on which it should be provided the opportunity to earn a reasonable return. It should not be used to penalize a utility for making sound decisions under difficult circumstances. It should provide an incentive to act prudently. The determinations of U&U by the Office of Public Counsel do not produce realistic results. Never was this more evident than in its handling of the Sandalhaven system. One only has to look at the impact of the results on Sandalhaven's rate base. I compared all of the wastewater system filings in this case to identify the $ per ERC in rate base as proposed by Utilities, Inc. of Florida in comparison to the adjusted $ per ERC in rate base proposed by OPC. These are the results:

	Rate Base per UIF	Rate Base per OPC	ERCs	UIF $/ERC	OPC $/ERC	Percent Change
Exclusive of Sandalhaven	$54,354,911	$43,877,182	34,882	$ 1,576	$ 1,272	-19.29%
Sandalhaven	$ 3,944,850	$ 293,548	1,229	$ 3,210	$ 239	-92.55%

Looking at the results, the most noticeable statistic is not that OPC adjusted rate base from nearly $4 million to $293,000, or that OPC finds it reasonable to reduce rate base by more than 92%, but that OPC finds it reasonable that this utility, or any utility, could actually provide wastewater service with an investment of only $239 per ERC. That should send up a red flag that OPC's approach does not produce reasonable results.

Q. Does that conclude your direct testimony?

A. Yes, it does.

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