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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20150012-WU

APPLICATION FOR TRANSFER OF
CERTIFICATE NO. 390-W FROM
COUNTY-WIDE UTILITY CO., INC. TO
SOUTHWEST OCALA UTILITY, INC. IN
MARION COUNTY.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 10

COMMISSIONERS
PARTICIPATING: CHAIRMAN JULIE I. BROWN
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER DONALD J. POLMANN

DATE: Thursday, July 13, 2017

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

REPORTED BY: ANDREA KOMARIDIS
Court Reporter

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 P R O C E E D I N G S

2 CHAIRMAN BROWN: All right. Moving on to
3 Item 10, which is our last item.

4 MS. WATTS: Melinda Watts for staff.

5 Commissioners, Item 10 is staff's
6 recommendation on the application for transfer of
7 Certificate No. 390W from County-Wide Utility
8 Company, Inc., to Southwest Ocala Utility, Inc., in
9 Marion County.

10 There have been no customer comments filed in
11 this docket, either supporting or opposing the
12 transfer. And staff recommends that the Commission
13 should grant the transfer.

14 Staff has requested oral modifications to this
15 recommendation. And all related parties have been
16 supplied with this information.

17 Commissioners, Mr. Charles Rehwinkel is here
18 on behalf of the Office of Public Counsel. And
19 Mr. Marty Deterding is here on behalf of the
20 utility to answer questions. And staff is also
21 available to answer questions.

22 CHAIRMAN BROWN: Thank you.

23 Mr. Deterding, would you like to address the
24 Commission now or after OPC makes comments?

25 MR. DETERDING: I would prefer to hear what

1 Public Counsel has to offer because I have no clue,
2 so --

3 (Laughter.)

4 CHAIRMAN BROWN: Mr. Rehwinkel.

5 MR. REHWINKEL: Good morning, again, Madam
6 Chairman and Commissioners. I understand why
7 Mr. Deterding would want to -- Deterding would want
8 to wait.

9 As modified -- well, I -- I -- I'm assuming
10 the staff will go through their oral modifications,
11 if need be. But what we've read in the oral
12 modifications, we concur with. They struck the
13 words "at this time" in the acquisition-adjustment
14 paragraph. And that's something that we -- we feel
15 is appropriate.

16 But I want to state for the record, and -- and
17 possibly ask the Commission to consider some
18 language in the order that I will get to at the end
19 of my talk -- my presentation.

20 But the Public Counsel believes that the use
21 of the attestation that is contained in this case
22 as a method of determining applicability of the
23 acquisition adjustment rule, while helpful in
24 resolving the highly-unusual and highly-fact-
25 specific circumstances of this particular case in

1 order to effectuate the transfer -- which we think
2 is in the best interest of all -- is not a good
3 practice or one we would like to see repeated.

4 And as to the lack of an acquisition
5 adjustment, while we support the staff's
6 recommendation, we are stating here, for the
7 record, that we do not concede that, if, for some
8 reason in the future, facts prove otherwise that a
9 negative acquisition adjustment is, in fact,
10 warranted, that we should be precluded from
11 advocating such for setting rates in a future case.

12 The Public Counsel was, like your staff,
13 precluded from making a full determination of
14 the -- what an acquisition adjustment would be
15 based on purchase price by the confidentiality
16 arrangement of the owner's bank.

17 We believe the owners had access to that
18 information and, thus, have forfeited their right
19 to seek a positive acquisition adjustment in the
20 future. But we do not concede that we have had the
21 opportunity to do so today.

22 We would ask you to consider adding language
23 along these lines to the order approving this
24 case -- assuming you approve the modified
25 recommendation -- that would read, "The highly-

1 unusual and fact- specific circumstances of this
2 case do not support the use of an attestation in
3 lieu of actual, supporting documentation for the
4 purchase price in future cases" -- something like
5 that.

6 CHAIRMAN BROWN: So -- so, basically something
7 to the effect of, this is not precedential.

8 MR. REHWINKEL: Yes, but I -- I really think,
9 more than that, it should be isolated to the very
10 unique circumstances of this case. There are a lot
11 of facts that we don't need to go into today that
12 are -- that are behind why we're here today, under
13 these circumstances.

14 While we don't like the attestation, we
15 believe that it -- it gets the job done for
16 purposes of what you need to do in the public
17 interest.

18 CHAIRMAN BROWN: Do you have a copy of that
19 language that you would like to share with us?

20 MR. REHWINKEL: Yeah, I can -- I can give it
21 to staff. I can give it -- send it to them
22 electronically.

23 CHAIRMAN BROWN: I would like to read it, if
24 we're going to make a motion on it, though.

25 MR. REHWINKEL: Okay. Yeah.

1 MR. DETERDING: I would, too.

2 CHAIRMAN BROWN: All right. Mr. Rehwinkel,
3 any further, additional comments?

4 MR. REHWINKEL: No. With those comments, we
5 support your staff's recommendation.

6 CHAIRMAN BROWN: Thank you.

7 All right. Commissioners -- oh, actually --
8 pardon me. The utility -- would you like to take a
9 five-minute break?

10 MR. DETERDING: If I -- if I could, I -- just
11 a couple of minutes.

12 CHAIRMAN BROWN: All right.

13 MR. REHWINKEL: I have another copy of --

14 CHAIRMAN BROWN: I think -- that's what I was
15 thinking. So, let's take a break and we will come
16 back here at 11:00. Thank you.

17 (Brief recess.)

18 CHAIRMAN BROWN: All right. I see our general
19 counsel conferring with the parties over there, but
20 we will take this back up, hoping that Public
21 Counsel had the opportunity to produce the language
22 that they want us to consider be incorporated.

23 But Mr. Deterding, you have the floor at this
24 time.

25 MR. DETERDING: Oh, okay. Thank you.

1 CHAIRMAN BROWN: If you could --

2 MR. DETERDING: I didn't --

3 CHAIRMAN BROWN: -- turn your mic on.

4 MR. DETERDING: It will give --

5 CHAIRMAN BROWN: Can turn on your mic on,
6 please? There you go.

7 MR. DETERDING: It is on.

8 CHAIRMAN BROWN: Thanks.

9 MR. DETERDING: I apologize.

10 It will give staff a moment to work out the
11 language that we sort of agreed to. It's -- I
12 think we're all in pretty much agreement on that.

13 I had one other issue I wanted to address in
14 the interim, very quickly. We appreciate all --
15 everything staff has done to work with us to try
16 and get this case resolved. It's been going on for
17 quite some time now. And we're very thankful for
18 everything they have done in the Commission's
19 direction in that regard.

20 There is one area, though, that I think needs
21 to be addressed. And I think it can be addressed
22 very simply. Briefly, the water-supply main
23 constructed by the utility in 2005 was specifically
24 disallowed in the last rate case. It continues to
25 be considered held for future use through this

1 proceeding. That's how we got to a resolution, in
2 part.

3 The staff's oral modification addresses the
4 CIAC related to that. We are just requesting that
5 some designation of -- of the purpose behind that
6 CIAC adjustment be included in the order; perhaps,
7 just the words "held for future use" being put on
8 Schedule 2, Page 2 of 3, as the description for the
9 adjustment. That way, it shows what that
10 adjustment really relates to and why it's being
11 made. And that's what we would request.

12 And I think staff is in agreement that is the
13 purpose of it. It's just I -- we would like it
14 laid out.

15 CHAIRMAN BROWN: All right. I saw
16 Ms. Crawford shaking her head, yes --

17 MS. CRAWFORD: Well, I would like to hear from
18 Mr. Maurey to make sure.

19 CHAIRMAN BROWN: Mr. Maurey?

20 MR. MAUREY: Yeah, staff can agree.

21 CHAIRMAN BROWN: Yeah. Yeah. It sounds
22 sensible. Thank you.

23 Mr. Rehwinkel?

24 MR. REHWINKEL: We would defer to staff's
25 judgment on that. So, we're happy with it.

1 CHAIRMAN BROWN: Okay. So, put that in, if we
2 approve the item.

3 All right. Any other comments from the
4 parties?

5 MR. REHWINKEL: Madam Chairman, kind of on the
6 fly, I had some language. Mr. Deterding had
7 some -- and his client had some helpful
8 modifications to it. Your general counsel,
9 Mr. Hetrick, had some other modifications.

10 What I would propose is -- we've given a
11 concept. And I think the -- the language is sort
12 of -- with all the cooks in the kitchen has become
13 sort of cumbersome.

14 And I would be happy -- if the concept that we
15 put out there is commended to you and your staff
16 and -- I would be happy with them drafting the --
17 the language for the order. Ultimately, it's your
18 order.

19 CHAIRMAN BROWN: I was just going to say, it
20 is our order.

21 MR. REHWINKEL: Yes.

22 CHAIRMAN BROWN: And I don't even know what --
23 the discussions that are going on.

24 MR. REHWINKEL: Yeah.

25 CHAIRMAN BROWN: We are the body to consider

1 it.

2 MR. REHWINKEL: Yes. So --

3 CHAIRMAN BROWN: So, just to conceptualize,
4 the concept is, you would like -- if you could just
5 summarize what you --

6 MR. REHWINKEL: Yeah. The -- the basic is --
7 is that attestation was useful and appropriate for
8 this specific case. And we don't believe it is --
9 should be used in the future because we don't
10 expect these highly-specific circumstances to
11 repeat themselves. This is kind of a -- a once-in-
12 a-hundred-years event, hopefully.

13 So, anyway, we -- we just think that, if the
14 Commission would put in the concept that it is not
15 precedential and it shouldn't be used again, we
16 would be happy.

17 CHAIRMAN BROWN: Uh-huh.

18 MR. DETERDING: And my only concern is -- is
19 that it is conceivable that something similar or --
20 or slightly different might occur in the future.
21 So, I wouldn't want to say, will not be used again.
22 I would suggest that it's just not precedential and
23 it's -- these circumstances are unique, and it's
24 not precedential.

25 CHAIRMAN BROWN: Okay. And legal. Mr. --

1 MR. HETRICK: Madam Chair, we can work with
2 this concept. I mean, I -- I have some language
3 here that sort of gets at it, but we need the
4 opportunity to be able to massage and review the
5 details of the language.

6 But I think the idea is that, while the use of
7 an attestation is appropriate in this case, due to
8 the highly-unusual and fact-specific circumstances
9 here, use of attestation shall not have
10 precedential value, be viewed as a substitute for
11 actual supporting doc- -- for actual supporting
12 documentation for the purchase price in future
13 cases.

14 That's always been our intent.

15 MR. DETERDING: And I -- I think we're in
16 agreement with the way he stated it right there.
17 It's a little bit run-on, but that's --

18 (Laughter.)

19 CHAIRMAN BROWN: Keith --

20 MR. DETERDING: But that's what we gave him.

21 CHAIRMAN BROWN: Keith, a little run-on?

22 Never. Come on.

23 MR. DETERDING: We kind of forced him into the
24 run-on, but --

25 CHAIRMAN BROWN: Mr. Rehwinkel, that sounds

1 good to you?

2 MR. REHWINKEL: Yes, we agree with that.

3 MR. DETERDING: Yes.

4 CHAIRMAN BROWN: Thank you for making it much
5 more clean for us up here.

6 All right, Commissioners.

7 Commissioner Polmann.

8 COMMISSIONER POLMANN: Thank you, Madam
9 Chairman.

10 I -- I want to recognize the importance of
11 this discussion and the points that were raised.
12 And I appreciate what the parties are -- are trying
13 to do. As was mentioned, it is the Commission's
14 order. And I -- I would ask my colleagues here,
15 give this a moment's thought.

16 And -- and I don't want to question, because
17 I'm, frankly, not legally qualified, but I'm
18 looking over here to counsel -- not necessarily
19 asking at this particular moment for -- to answer
20 this, but again, looking at colleagues -- whether
21 or not it's appropriate to include in the
22 Commission's order -- just putting that aside for
23 the moment, appropriate or not.

24 The real question is whether it's necessary to
25 include this language in the order, given this

1 discussion, because the intent, the need, the
2 purpose of all this is now on the record.

3 So, I think it really is part of the official
4 proceeding of what we're doing -- whether it's
5 appropriate to include all this and whether it's --
6 whether it's a run-on or not and all of that,
7 trying to consolidate that.

8 Putting that aside, is it -- is it necessary
9 for us to do that. I think we understand. We can
10 go back and review the record, and bring that
11 forward as necessary.

12 So, I'll just leave that here. If you wish to
13 discuss -- to discuss it, Madam Chairman -- I just
14 wanted to bring -- bring forth that thought.

15 CHAIRMAN BROWN: I think the most-appropriate
16 person to answer that would be our legal staff.
17 And they will elaborate on why memorializing
18 something in writing is useful or not.

19 MS. CRAWFORD: Yes. Although I appreciate
20 your comments about in the record, really we don't
21 have, legally speaking, a record before us. We're
22 not in a hearing.

23 And in my mind, the best way to memorialize
24 the basis upon which the Commission possibly will
25 approve this item is to capture, as best we can,

1 the specific elements that led the Commission to
2 that approval.

3 Somebody looking at our orders -- our orders
4 are the best reflection of the Commission's
5 decision and the basis upon which it arrived to its
6 conclusion, its decision.

7 And somebody, yes, could look up the
8 transcript or watch it on Granicus. However, I
9 believe the most-complete and correct way to
10 capture what the discussion is is to put in the
11 order, provided the Commissioners making the
12 decision are in agreement to its inclusion.

13 MR. HETRICK: If I could add to that, I think
14 the trick here, and what we're concerned about, and
15 what we want to make sure we capture in this final
16 order is that we -- and I think what -- and with
17 all due respect, what I think Commissioner Polmann
18 is getting at is he doesn't want to tie the
19 Commission's hands in the future; doesn't want to
20 tie the discretion of the Commission to consider
21 future cases or future facts.

22 No, we don't intend to typically use
23 attestation as a mechanism, but our rule is not
24 clear on what form that purchase price must take.
25 And no, this isn't going to be a typical scenario.

1 And yes, precedent is a concern.

2 So, those are the kinds of balancing things we
3 need to capture in this concept so that we limit
4 this decision to the facts in this case, but we
5 also do not limit the Commission's discretion in
6 the future.

7 And that's what we will work on with this
8 language. I think we're pretty close.

9 CHAIRMAN BROWN: Commissioner Polmann?

10 COMMISSIONER POLMANN: Thank you for that --
11 that response. That helps me understand. And I
12 think, with that, I'll stand down.

13 CHAIRMAN BROWN: Commissioner Graham?

14 COMMISSIONER GRAHAM: Thank you, Madam Chair.

15 I guess I'll go ahead and throw this grenade
16 in there: I don't like it. I -- I agree with what
17 OPC said. I guess everybody is making the good
18 argument that this is not going to be -- this is
19 not going to set a precedent moving forward.

20 But what bothers me is there is a contract
21 between a third party that, in my opinion, is tying
22 our hands. And I guess my frustration is why we're
23 letting that happen. What we can do -- and I've
24 talked to staff about it, and we went around in
25 circle. And I've heard the utilities talk about

1 it.

2 I guess because Mr. Rehwinkel brought it
3 forward, I can talk to him and ask him about this.
4 It just -- it's frustrating to me. I would think
5 that we would have some tools in the toolbox to
6 somehow penetrate this confidentiality agreement.
7 We have mechanisms where we know how to handle
8 confidentiality. We deal with confidential
9 documents all the time.

10 I don't understand why -- and assuming that
11 the utilities want to give us the information, but
12 legally they're saying that they cannot -- how can
13 we give them the tool to get this information to
14 us?

15 And Mr. Rehwinkel, that question is to you.

16 MR. REHWINKEL: Thank you for the grenade,
17 Commissioner.

18 (Laughter.)

19 MR. REHWINKEL: I'm a bit at a -- at a loss.
20 I think we've -- we -- we feel identically with the
21 sentiment you expressed. We do think that there is
22 a value in the transfer occurring. And we think
23 that it's important for customers in -- in getting
24 service that -- that we -- we move on this way.

25 So, we've -- we're -- we struggle with kind of

1 what's the best way to do this. We -- we don't
2 like the attestation method. We -- we hate it. We
3 think the Commission ought to be able to see this
4 information. But there's kind of a stalemate here.
5 And I don't know -- I don't have any good way to
6 recommend to you to do this.

7 We put forth this -- this language as a means
8 for us saying, we will not ask for a hearing on
9 this. We -- we agree with Ms. Crawford's analysis
10 that that's where you go to look at orders.

11 I started looking at -- I think there was 762
12 orders on Lexis to try to get an idea of what the
13 policy was here. And the policy is, you know,
14 you -- you look at the -- the -- the net book value
15 and you look at the purchase price. Is it above or
16 below.

17 And then you look at these circumstances of
18 you had a rule -- you have a rule, now. You
19 didn't, but you've had a -- you have a large body
20 of -- of case law that says, it's that accounting
21 determination that determines whether an
22 acquisition adjustment exists, and then whether you
23 recognize it in rate-making.

24 So, yes, your hands are tied. We believe
25 that -- we think you should be able to see it. We

1 think we should be able to see it. But other than
2 this stalemate persisting for a long time, I don't
3 know of a good way to get around it, other than to
4 isolate it to this situation and -- and hopefully
5 never do this again.

6 So, that's -- that's the reason why I wanted
7 to say, the order was limited to this and -- and we
8 should not countenance this type of -- of a fact
9 situation and -- and a bank agreement blocking the
10 Commission -- because I mean, you guys have pierced
11 stronger veils than this with some bigger companies
12 in the past, over the years, that -- of my
13 experience.

14 COMMISSIONER GRAHAM: And -- and that's
15 probably what my biggest concern is that -- and
16 now, granted, this has been dragging on now for
17 what, two, three years. It just seems like it
18 just -- it's just this can that keeps on kicking
19 down the road.

20 And one of the things I don't want to do is
21 try to defer or kick this thing down the road again
22 because, as our attorney said last time, it's --
23 we're going to be right back here again with the
24 same situation. And one of the things the
25 Chairwoman said before was, you know, can we

1 show-cause this sort of thing to kind of try to pry
2 this thing open.

3 And once again, assuming that this is really
4 what everybody wants to get done, we need to find
5 some sort of mechanism or some sort of tool to pry
6 this door open.

7 Mr. Rehwinkel.

8 (Laughter.)

9 MR. REHWINKEL: Essentially, I'm going to dive
10 on the grenade and cover and smother it because I
11 really just don't know -- I don't know, other
12 than -- I think the mechanisms, unfortunately, that
13 would be at your disposal would sort of be
14 disproportionate to the -- the relief we actually
15 were trying to get here.

16 I -- I mean, we've -- what you're saying is
17 music to my ears. And I -- I think the -- the fact
18 that you feel so strongly about this ought to be a
19 signal that we should never see something like this
20 again.

21 And I -- I think we're -- we're willing to
22 kind of move forward and -- and -- but I -- I
23 would -- I mean, we would support an effort to show
24 cause, if that was the will of the Commission, but
25 we're not here recommending that today.

1 COMMISSIONER GRAHAM: Well, I am -- I -- I
2 won't be voting for Issue 2 as it is, but I'm not
3 here to -- to stop this thing from moving forward.
4 You know, my strength is not the legal side of
5 things. And that's why I'm -- I'm reaching out,
6 but I -- I don't like it.

7 I do appreciate the fact that staff has worked
8 as hard as they have. And I've -- I understand
9 their frustration, just like everybody else's
10 frustration, that we are here. And I -- there's no
11 doubt in my mind that we'll see this again. The
12 rate case will come up and we'll see this again,
13 and it will be the same frustration.

14 And I guess my concern is that this is
15 something we should fix now and not fix later, but
16 we're not talking about gigantic dollars here right
17 now. And so, I can also see that frustration on
18 everybody's face. So, I'm not going to make a
19 bigger point out of it than I already have.

20 One of the other concerns I have on Issue 1,
21 Page 4, facility's description of compliance --
22 about halfway down that paragraph, it says,
23 "Therefore, the City of Ocala is responsible for
24 assuring the water meets primary and secondary
25 quality standards."

1 Now, we've had this conversation before. The
2 City of Ocala does not come before this Commission.
3 It is a municipal utility.

4 CHAIRMAN BROWN: Uh-huh.

5 COMMISSIONER GRAHAM: But yet, we are
6 responsible to make sure that this utility provides
7 primary and secondary standards. So, this line
8 right here basically kicks the can out to the
9 municipals.

10 CHAIRMAN BROWN: Uh-huh.

11 COMMISSIONER GRAHAM: But our task is to make
12 sure that that is done. So, I have a big issue
13 with the fact that this is here in the
14 recommendation. And it shouldn't be here. And we
15 need to figure out a way to make sure that this
16 utility is the one that's responsible for that
17 primary and secondary standard.

18 Now, I guess, we can have that conversation.
19 How does that happen? How do we go about making
20 that happen.

21 Staff?

22 CHAIRMAN BROWN: Yes.

23 MS. WATTS: The way things are right now,
24 we -- you know, DEP is the one that enforces and --
25 you know, all of the water in this state, that all

1 the systems meet the primary and secondary
2 standards. And the testing that they require for
3 the secondary standards is at the source, which is
4 the City of Ocala. And unfortunately, you know, we
5 don't have the ability at the moment to, you know,
6 do much with that.

7 COMMISSIONER GRAHAM: But that's not the way
8 the law reads. The law puts the requirement -- it
9 puts -- it puts it on us to make sure that the
10 utilities that we regulate --

11 CHAIRMAN BROWN: Uh-huh.

12 COMMISSIONER GRAHAM: -- hit a primary and
13 secondary standard.

14 MS. WATTS: And again, the tests are -- for
15 those are done --

16 COMMISSIONER GRAHAM: I understand that.

17 CHAIRMAN BROWN: Mr. Futrell --

18 MR. FUTRELL: Yes.

19 CHAIRMAN BROWN: -- it looks like you're ready
20 to make a remark.

21 MR. FUTRELL: Commissioner, I think it's a
22 good point. We've had this discussion before. And
23 it definitely introduces the focus -- you're
24 focused on the statutory requirements of this
25 Commission that were recently enacted.

1 We're going to take a look at how do we
2 represent and analyze our -- and meet our
3 requirements and represent to you what we -- what
4 we understand the compliance posture of the utility
5 is with regard to DEP as well as to us, and to be
6 able to convey that to you in a more-succinct and
7 proper way that addresses our responsibilities
8 under the statute --

9 COMMISSIONER GRAHAM: So --

10 MR. FUTRELL: -- because it's -- in this
11 case -- in this case -- in this case, this is --
12 this is where we are today. But I can tell you,
13 going forward, we want to better address that --
14 our responsibilities under the statute and
15 represent that in these representation -- in these
16 recommendations going forward.

17 COMMISSIONER GRAHAM: Well, the issue is,
18 right now, is we're -- according to the staff
19 recommendation, we are blessing the status quo,
20 which we should not be doing --

21 MR. FUTRELL: Yeah.

22 COMMISSIONER GRAHAM: -- because we know
23 better. And we've -- as you said, we've had this
24 conversation before. And actually, I -- I guess I
25 have to be a little upset by the fact that staff

1 put this in this recommendation because it either
2 needs to be stricken out of there or we need to do
3 something different or however we need to go about
4 fixing it.

5 I know we did talk about actually making this
6 part of the minimum fire -- following -- filing
7 requirements when they come before us for a rate
8 case. And maybe that will be done before then.
9 But in this transfer of certificate, I have a
10 problem with that line even being in here.

11 CHAIRMAN BROWN: Uh-huh.

12 MR. HETRICK: Madam Chair?

13 CHAIRMAN BROWN: Yes.

14 MR. HETRICK: I think Commissioner Graham does
15 raise a good point. I think what would make this
16 easier is that, typically, when the Commission
17 looks at water quality standards, particularly
18 secondary quality standards, from a statutory
19 perspective, it comes up in the context of a rate
20 case.

21 We don't have independent authority to go out
22 there, unless we have customer complaints. But we
23 don't typically, outside of the scope of a rate
24 case, enforce primary and secondary standards.

25 That's up to DEP to do. But in the context of the

1 rate case, customer complaints or standards, as you
2 know, we typically do have joint typical authority
3 and to enforce secondary standards.

4 So, maybe what would be -- what was overlooked
5 here, which either can be fixed in the staff rec --
6 and I can -- we can get with -- I don't know if we
7 can change staff recs now, but certainly in the
8 final order.

9 I think what's missing here is "Therefore, the
10 City of Ocala, in conjunction with DEP and the
11 utility, are responsible for ensuring water meets
12 primary and secondary water quality standards,"
13 because once you tie the utility in that, they are
14 subject to DEP regulations.

15 Then, when we get to the point where we have
16 jurisdiction over a rate case, we can come in
17 and -- and have -- have jurisdiction over that
18 utility to enforce the water quality standards.

19 So, I think that would -- that kind of a
20 change in the context of this might address your
21 concern. It would be a more-accurate reflection
22 of -- of what the state of the law is without
23 getting into the fact that we're -- we're not
24 considering -- we're not in a rate case right now.

25 CHAIRMAN BROWN: Commissioner Graham?

1 MR. HETRICK: Does that make sense?

2 COMMISSIONER GRAHAM: Braulio, did you have
3 something you were going to add?

4 MR. BAEZ: (Shaking head negatively.)

5 COMMISSIONER GRAHAM: I -- I think that's a
6 good recommendation. And I -- I would move -- I
7 would vote for Issue 1 with that change being made.

8 And Madam Chair, after everybody else is done
9 speaking, if we can take these three issues up
10 separately, I would appreciate it.

11 CHAIRMAN BROWN: That is a wise idea.

12 Before I get to Commissioner Polmann, I do
13 want to just comment. You raised some excellent
14 points. And as a regulator, those points needed to
15 be raised. And I appreciate your articulating
16 them.

17 I absolutely am frustrated with this, as much
18 as all of the parties probably are, and staff as
19 well. And I understand that there's been a lot of
20 time trying to find a solution.

21 And obviously, the clear solution would be to
22 have somebody verify what that amount is. And I
23 don't know why we can't have an independent auditor
24 go in and verify it under confidentiality. And
25 then that would simplify it because, you know, as

1 regulators, we've got to get these numbers as
2 accurate as possible.

3 Like Commissioner Graham said, there -- you
4 know, if the utility does come back in for a rate
5 case, this -- this is going to be addressed again.
6 It is an issue. And it's not exactly accurate.

7 So, it's hard -- I share sent- -- similar
8 sentiment. It's hard to vote for something that
9 isn't a hundred percent accurate.

10 With that, Commissioner Polmann.

11 COMMISSIONER POLMANN: Thank you, Madam Chair.

12 And I appreciate Commissioner Graham's
13 comment. And I'm going to address that. And I'll
14 support taking these issues separately.

15 And not to belabor the point to the water
16 quality. I would like staff to provide information
17 on that and -- and supporting general counsel's
18 comment.

19 I would suggest the Commission should have
20 detailed further discussion. We've addressed this
21 issue in -- in previous meetings and that requires
22 a lot more work.

23 Just a comment on this particular issue, the
24 way this text is written. I -- I appreciate
25 Commissioner Graham's concern about this. I read

1 this text as simply straightforward. I don't think
2 it represents any opinion of staff -- not to
3 disagree with your concern, but I'm reading this as
4 simply material stating facts.

5 So, I -- it doesn't concern me that they're
6 offering an opinion or -- or anything with regard
7 to this particular utility. Having said that, I
8 agree that further clarification and discussion on
9 our responsibility is absolutely necessary, but I'm
10 okay with this in regard to this particular issue.
11 And I can support this Issue 1.

12 So, I just wanted to make that comment on
13 that -- that particular issue. That's all. Thank
14 you.

15 CHAIRMAN BROWN: Commissioner Polmann, did you
16 want staff to clarify or anything? You said at --
17 you're fine?

18 COMMISSIONER POLMANN: No, that's for future
19 discussion.

20 CHAIRMAN BROWN: Okay.

21 COMMISSIONER POLMANN: Not on this particular
22 issue.

23 CHAIRMAN BROWN: And it will be coming back
24 next month. So, we'll see this a lot.

25 Commissioner Brisé.

1 COMMISSIONER BRISÉ: So, I'm going to game
2 this out just for a little bit. So, let's say this
3 utility ends up having primary and secondary water
4 issues and then the citizens do the petition piece.
5 How do we resolve that at that point?

6 MR. BAEZ: To --

7 CHAIRMAN BROWN: Statute -- per the statute.

8 COMMISSIONER BRISÉ: Per the statute -- the
9 people are unhappy with the -- the water and so,
10 therefore, they do the petition that --

11 MR. BAEZ: Oh, okay. Yeah.

12 COMMISSIONER BRISÉ: So, how do we resolve
13 that with the City pro- -- providing the water?
14 How do we, then, deal with the utility with the
15 City?

16 MR. BAEZ: Wow. You're really gaming this
17 out, aren't you?

18 COMMISSIONER BRISÉ: Yeah.

19 MR. BAEZ: I don't -- I'm -- I'm -- I'm going
20 to be honest -- I'm going to be honest with you. I
21 mean, we -- we've had discussions on the petition
22 process using any number of scenarios, but I
23 don't -- I don't think that the scenario involving
24 a utility being a re- -- a reseller -- I forget
25 what the term was. It wasn't reseller -- was it?

1 Yeah, a reseller -- ever came up in those
2 conversations.

3 So, to be honest with you, Commissioner,
4 that's a -- that's a wrinkle that we're not sure
5 that we're prepared to -- to -- I'm not prepared to
6 answer. I don't know if any of the smarter
7 people are -- are prepared to answer that.

8 We'll have to get back to you. Thank you for
9 the question, though. It gives us a little bit of
10 homework walking out.

11 COMMISSIONER BRISÉ: So -- so, that gets us
12 back to a little bit of what Commissioner Graham
13 said --

14 MR. BAEZ: What -- what Commissioner Graham
15 said.

16 COMMISSIONER BRISÉ: -- Graham's concern.

17 MR. BAEZ: I appreciate -- I appreciate
18 Commissioner Polmann's comments because I think,
19 taken altogether -- I think general counsel makes a
20 good point. A clarification that -- that, at some
21 point in time, the utility is going to be
22 responsible or that there is some application or
23 obligation under the secondary standards that
24 belongs -- that they have to us should be
25 clarified.

1 The recommendation or the comments under this
2 recommendation that the staff is making don't speak
3 to that. And they don't speak to that for a good
4 reason; because we're not in a -- we're not in a
5 forum or we're not in a -- in a case, if you will,
6 where that statute is -- is applicable.

7 Now, we can -- we can differ as to whether it
8 should be or it shouldn't be, but we don't see that
9 as being applicable to us. We're not changing
10 rates. Rates are not a question here. And -- and
11 that's why.

12 That would be my answer to you, Commissioner,
13 as to why this reads a certain way.

14 CHAIRMAN BROWN: Commissioner Brisé? No?
15 Commissioner Graham.

16 MR. BAEZ: And Commissioner Brisé, your
17 question hasn't been answered. And it -- it will
18 be eventually. I promise.

19 CHAIRMAN BROWN: Uh-huh. Commissioner Graham.

20 COMMISSIONER GRAHAM: Well, then that goes
21 right back to what I was saying initially, then.
22 It probably shouldn't even be there.

23 And going back to what Commissioner Polmann
24 had said, I read this differently. I -- I read --
25 and it's probably that one word that says

1 "therefore." I mean, that's --

2 CHAIRMAN BROWN: Conclusory.

3 COMMISSIONER GRAHAM: That -- there's a
4 conclusion there. There's -- they're saying,
5 therefore, this is -- this is what the case is.
6 Now, I don't have a problem if we just completely
7 strike that thing. I don't have a problem if we
8 make the changes that general counsel put out
9 there, but this is problematic. And this is
10 something we've talked about before and --

11 MR. BAEZ: I see what you're saying.

12 COMMISSIONER GRAHAM: And we can either, you
13 know, go back through some sort of a glitch bill
14 for the legislators to change the task that's put
15 before us with that statute.

16 MR. BAEZ: I -- I see -- I see what you're
17 saying. I -- I would -- to --

18 MR. HETRICK: Can we change it?

19 MR. BAEZ: It would -- it would seem to me
20 that you get to vote on what you want.

21 (Laughter.)

22 MR. BAEZ: And if -- if your motion -- well,
23 I -- I'm not kidding, Commissioners. And -- and
24 if -- and if your motion includes excising that
25 declare- -- that sentence -- I -- I know I've done

1 it before, once upon a time.

2 COMMISSIONER GRAHAM: And once again, my
3 strength is not the legalese, and I just --

4 MR. BAEZ: I don't believe it changes -- I
5 don't believe excising that one sentence --

6 CHAIRMAN BROWN: Right.

7 MR. BAEZ: -- changes the -- the result.

8 CHAIRMAN BROWN: Okay. Thank you,
9 Commissioner Graham.

10 Commissioner -- and I agree, I think excising
11 that would because it is conclusory, therefore
12 making it -- it's verifying it.

13 MR. BAEZ: And it's conclusory about somebody
14 else's jurisdiction.

15 CHAIRMAN BROWN: Yes.

16 MR. BAEZ: So --

17 CHAIRMAN BROWN: I think you may be more of a
18 lawyer than you think.

19 Commissioner Polmann.

20 COMMISSIONER POLMANN: I agree with Mr. -- on
21 this particular point -- well, actually, I agree
22 with Commissioner Graham on a lot of the things.

23 I would suggest we simply delete the sentence
24 he referenced, "Therefore, the City of Ocala is
25 responsible for ensuring the water meets primary

1 and secondary water quality standards." It's
2 unnecessary.

3 CHAIRMAN BROWN: Uh-huh. Okay. So, we are
4 going to vote right now on Issue 1, since we're
5 ripe. So, Commissioner Graham, would you like to
6 make the motion on Issue 1?

7 COMMISSIONER GRAHAM: I move we -- we -- I
8 move staff recommendation in its entirety except
9 for striking out that -- that line that says,
10 "Therefore, the City of Ocala is responsible for
11 ensuring that the water meets primary and secondary
12 quality standards."

13 CHAIRMAN BROWN: Thank you.

14 Is there a second?

15 COMMISSIONER POLMANN: Second.

16 CHAIRMAN BROWN: Okay. I think that the clerk
17 is -- is clear on that as well. And is there any
18 further discussion?

19 Staff.

20 MS. CRAWFORD: And just for clarification,
21 that also includes the staff modification on
22 Issue 1?

23 CHAIRMAN BROWN: With the oral modifications.

24 MS. CRAWFORD: Yes, ma'am.

25 CHAIRMAN BROWN: Yes. Is that -- that's

1 correct.

2 MS. CRAWFORD: Thank you.

3 CHAIRMAN BROWN: Yes.

4 All those in favor, say aye.

5 (Chorus of ayes.)

6 CHAIRMAN BROWN: Motion passes.

7 Moving on to Issue 2, which is one that we're
8 all kind of struggling with here, but --
9 Commissioners, any thoughts or comments on moving
10 this issue forward?

11 Commissioner Polmann.

12 COMMISSIONER POLMANN: Thank you, Madam
13 Chairman.

14 Mr. Rehwinkel, if I understood it correctly,
15 I -- I believe there was reference in your comments
16 to the magnitude -- my words -- the magnitude of
17 the dollars involved here.

18 And -- and I think I understood the -- the
19 conversation, the various points that were made,
20 and your willingness to jump on that -- the hand
21 grenade -- and thank you for that.

22 Would you consider dropping your concern
23 because the small dollars? I mean, this is not a
24 big deal in terms of the impact to the rate when it
25 comes forward.

1 Now, this can be addressed in a rate case.

2 MR. REHWINKEL: Chair- -- I mean,
3 Commissioner, I'm kind of surmising about the
4 magnitude. The magnitude could be that -- you set
5 the rate base at \$90,000 based on net book value
6 with the modifications the staff has come out with,
7 and based on something in how the assets of this
8 particular entity versus other entities that might
9 be involved in the transaction -- as it turns out,
10 it might be that -- that the -- the purchase price
11 was \$10.

12 And so, the negative acquisition adjustment --
13 and this is all theoretical. I'm not suggesting
14 these are the facts -- would be 90 -- 89,995. And
15 that would be -- in the scope of this, it would be
16 somewhat more material.

17 The -- the concern we have -- and I think
18 you've heard the Public Counsel in recent months
19 come before the Commission to talk about your
20 rules --

21 COMMISSIONER POLMANN: Yes, sir.

22 MR. REHWINKEL: -- and adhering to precedent.
23 We think this is a terrible idea to be used in any
24 other circumstance, in any other case. We -- we
25 think that this Commission has decades of history

1 establishing rates based on engineering and
2 accounting standards that they are -- your very-
3 professional staff is -- is schooled and skilled
4 in.

5 So, this is a departure from that. It's just
6 a piece of paper with a signature. And I'm not --
7 I'm not, again, questioning the veracity of the
8 people who signed it, but it is not a good idea.

9 And so, with all due respect, we insist -- we
10 are asking you to make this adjustment so that we
11 don't have to litigate this issue in this case, and
12 they can move on and start addressing the issues of
13 serving the customers and -- and whatever else so
14 the transfer can go ahead -- go forward.

15 So, that's why we would decline your
16 invitation to drop it because we think it's
17 important. I -- I mean, again, we think -- we
18 think the Commission ought to be able to get to
19 this information. But in this one case, based on
20 all the other attendant circumstances, that this
21 has a long and -- long history is that -- we can
22 move on.

23 COMMISSIONER POLMANN: Thank you, sir. I --
24 I'm simply trying to get to the point of what is
25 most important. As -- as Commissioner Graham

1 identified, this has been going on for years. And
2 I -- I appreciate what you're trying to do, I
3 think. And I understand you've raised issues on
4 rules and policy and -- and so forth, and
5 identified this as unique, and the issue of
6 precedence and all those things.

7 But the importance of bringing this to
8 closure, this particular item and -- and so
9 forth -- and I am simply trying to look at it and
10 say, what is the most-important issue here today on
11 this particular item. And I don't want to force
12 you to choose. I just wanted to ask.

13 MR. REHWINKEL: And I appreciate that.

14 What's important to us -- and I referenced
15 that the research that I tried to do to get ready
16 for this item -- is that's where people go to see
17 what the Commission has done.

18 And if this attestation is in there and it's
19 not isolated and locked in a vault, so to speak,
20 then -- then people will try to use it again and
21 again and again. And it will become another policy
22 or practice of the Commission.

23 And -- and we just are trying to stop that.

24 So, that is very important to us.

25 COMMISSIONER POLMANN: Thank you.

1 CHAIRMAN BROWN: Thank you.

2 Commissioner Graham, just one -- one moment.

3 Mr. Deterding, have you explored every option
4 in your discussion to get to disclose the amount --
5 have you thought about maybe having an independent
6 auditor verify or any other type of creative
7 mechanism that would actually -- that would make it
8 more accurate.

9 MR. DETERDING: Well, Madam Chair, I think --
10 I don't -- I don't think it's really a question of
11 accuracy. I think the figures that are shown in
12 the staff recommendation and the issues being dealt
13 with were put to those that were necessary in order
14 to get through a transfer case as opposed to a rate
15 case where the issue may arise again, and we may
16 have to deal with those issues all over again.

17 But what we were trying to do was find a way
18 to get through this case and comply with the
19 requirements of the Commission in getting through
20 this case.

21 As -- as far as the information, underlying
22 information, we have tried to contact the bank even
23 to give the affidavit that was ultimately given by
24 the owner of the utility and to have them
25 participate. We could not even get a response

1 because they don't have any obligation to us. They
2 don't have any obligation to you. You have no
3 jurisdiction over them.

4 So, we were kind of between a rock and a hard
5 place. And all we were trying to do and have been
6 trying to do for two years is get through the
7 transfer proceeding and comply with the statutory
8 rule requirements to get there.

9 And I think we've worked hard for two years to
10 get to this point where we can finally say, okay,
11 this meets the requirements. This is satisfactory
12 to meet those requirements, even if we don't have
13 all the information we may want in a rate case.
14 And I think everybody has worked hard in trying to
15 get us there.

16 Now, that said, you know, there is still the
17 issue out there, in our mind -- very much at
18 forefront in our mind that is not being discussed
19 there today, which is whether or not that
20 information is relevant. And we say it's not, but
21 we're trying to get past all that.

22 CHAIRMAN BROWN: Okay. Thank you.

23 Commissioner Graham.

24 COMMISSIONER GRAHAM: Question to staff: Who
25 has the burden of proof here on what that number

1 is? Is it staff's burden to find that number? Is
2 it the utility's burden to provide that number?

3 MS. CRAWFORD: Recognizing that the net book
4 value acquisition adjustment is typically handled
5 as PAA, there is not, strictly speaking, a burden
6 of proof like you would have in a rate case. But I
7 would argue that with any petition by the utility
8 for relief before the Commission, ultimately, the
9 burden rests on the utility to provide the
10 information needed.

11 That being said, staff does try to get the
12 information it needs so it can come to you with
13 a -- as-correct and thorough recommendation as it
14 possibly can have.

15 And again, after much discussion, this was the
16 kind of consensus reached that, while not what we
17 would typically see put forward, that the affidavit
18 was legally sufficient to get us where we needed to
19 be today.

20 COMMISSIONER GRAHAM: So, what happens if, for
21 some reason, Issue 2 does not pass? Then what --
22 what position are we in at that point?

23 MS. CRAWFORD: Are you talking about not
24 voting on Issue 2 or are you talking about denying
25 Issue 2?

1 COMMISSIONER GRAHAM: Give me both.

2 CHAIRMAN BROWN: Either.

3 MS. CRAWFORD: Okay. If the Commission wished
4 to defer it, I suppose the question would be would
5 it defer it to some future agenda or would it
6 simply defer it to whatever future rate proceeding
7 might be brought to the utility.

8 I would prefer to have a -- accounting staff
9 speak to whether that creates any concerns. If
10 staff is okay with it, I don't know of any legal
11 impediment to doing that. You might want to hear
12 from the parties on that issue.

13 If it's denied, then it would be incumbent --
14 staff is recommending no acquisition adjustment,
15 then I believe the Commission would need to say
16 what decision it believes would be appropriate;
17 whether to make an acquisition adjustment or what
18 have you.

19 COMMISSIONER GRAHAM: Well, let me give you
20 this -- what if we -- if we changed this from
21 the -- whatever the number is -- \$90,000 we were
22 talking about -- down to the \$300 that they -- that
23 they, quote, can prove, and -- but my understanding
24 is, if we make that acquisition adjustment, that
25 still doesn't change the rates that they currently

1 have in effect now.

2 So, if that's the case, then they're already
3 in an over-earnings position, correct? And then
4 the burden would be upon us to bring them in for
5 over-earning.

6 MS. CRAWFORD: Perhaps --

7 MR. MAUREY: Well, technically, they would not
8 be in an over-earnings position because of the
9 negative acquisition adjustment. The over-earnings
10 would come in with respect to if their earned
11 return was outside their authorized range, which
12 doesn't change as a result of this decision today
13 whether it's voted out or the status quo remains.

14 To the earlier question, if it's not voted --
15 Issue 1 has been disposed of. If Issue 2 is not
16 voted, the matter would simply shift to the next
17 rate proceeding, when- -- whenever that might be.
18 And it could be accommodated in that case.

19 COMMISSIONER GRAHAM: So, basically,
20 everything stays -- the transfer -- the certificate
21 gets transferred, everything else just stays status
22 quo.

23 MR. MAUREY: If --

24 COMMISSIONER GRAHAM: And --

25 MR. MAUREY: If there's no vote on Issue 2,

1 that's correct.

2 COMMISSIONER GRAHAM: Okay. Thank you.

3 CHAIRMAN BROWN: Thank you, Commissioner
4 Graham.

5 Commissioner Polmann.

6 COMMISSIONER POLMANN: I'm -- I'm thinking
7 through whether or not Commissioner Graham's
8 question has answered all my questions. So, I'll
9 pass for the moment. If there are any other
10 questions, please proceed.

11 CHAIRMAN BROWN: Okay. I don't see any other
12 lights.

13 I think let's kind of steer us -- I think
14 we're getting to a natural point at this time for a
15 motion for Issue 2. I think -- and Issue 3 is a
16 close the docket.

17 So, if we defer vote on Issue 2 to the next
18 rate proceeding, then would Issue 3 change?

19 MS. CRAWFORD: If it's the Commission's
20 will -- essentially the vote on Issue 2 is to defer
21 the matter and not make an acquisition adjustment
22 at this time and, instead, let the issue be visited
23 in whatever future rate proceeding might next come
24 up. I think that would be actually be the vote of
25 the Commission. It would be captured in the order,

1 and the docket could be closed.

2 CHAIRMAN BROWN: Closed. Okay. So, let's --
3 let's -- we've heard a lot of discussion here from
4 staff and some ideas. We're ready for a motion on
5 any of these ideas.

6 Commission Brisé.

7 COMMISSIONER BRISÉ: Not a motion -- sorry.
8 Not a motion. I just want to hear from the parties
9 on -- on that idea.

10 MR. DETERDING: I'm not sure that -- whether
11 you're required or not to establish rate base in
12 this proceeding, No. 1. I would have to look back
13 at the statute.

14 No. 2, I thought we had all worked very hard
15 to try and present the Commission with a -- an
16 option that satisfied the needs of every -- all the
17 parties. And that's what we had hoped would be
18 voted on today.

19 CHAIRMAN BROWN: Okay.

20 MR. REHWINKEL: Madam Chairman?

21 CHAIRMAN BROWN: Yes, sir.

22 MR. REHWINKEL: I'm not sure I understand --
23 Issue 2 is about setting rate base in its entirety.
24 I -- in my research, I've seen cases where the
25 Commission has said there wasn't enough information

1 to establish rate base, and they just didn't
2 establish it. I've seen that.

3 I -- those cases -- I looked at cases between
4 '99 and 2013. So, it would have been in that time
5 frame. I don't know if there was a statutory
6 change that would have overridden that.

7 If there -- if the issue of -- and I assume
8 the only issue is whether there's an acquisition
9 adjustment to be had. The company has not asked
10 for a positive acquisition adjustment.

11 It would be our assumption that the only thing
12 that would transit down the road to the next rate
13 case would be whether a negative acquisition
14 adjustment would be -- would be required or -- but
15 the -- the \$90,000 number, I think, that's there --
16 there doesn't seem to be any dispute that that's
17 the net book value, absent the issue of negative
18 acquisition adjustment.

19 So, I don't know if you could at least do that
20 much. I don't know if that would make sense. But
21 the issue that -- the can to kick down the road, it
22 would seem to be, is whether there's a negative or
23 not.

24 CHAIRMAN BROWN: Okay.

25 MR. REHWINKEL: And if you did that, at least

1 to answer Commissioner Polmann's earlier concern,
2 it would -- and the attestation disappeared from
3 your order, that would -- that would make us happy.

4 CHAIRMAN BROWN: Okay. Commissioner Brisé,
5 any further questions or comments?

6 Commissioners or staff.

7 MS. CRAWFORD: I would just note quickly,
8 Ms. Helton provided me a copy of 367.071, which is
9 the transfer statute. And it notes in Subsection 5
10 that the Commission, by order, may establish the
11 rate base for the utility for its facilities or
12 property when the Commission approves the sale,
13 assignment, or transfer.

14 Doing a quick look at the rules and -- you
15 know, it is a quick look at the rules for both
16 transfer and the acquisition adjustment, I don't
17 see any language that mandates the Commission
18 making an acquisition adjustment at the time of
19 transfer, but again, that is a quick review.

20 CHAIRMAN BROWN: Thank you. Very thorough
21 discussion on this. Appreciate the parties trying
22 to come to a solution. Obviously, we always have
23 to entertain all ideas as well. And if there's
24 discomfort that -- so be it.

25 Commissioner Graham, would you like to make a

1 motion on Issue 2?

2 COMMISSIONER GRAHAM: Let me understand -- and
3 I'm sorry. I -- I don't mean to be belaboring this
4 thing any longer than I already have.

5 If we didn't vote on Issue 2, doesn't that,
6 for the most part, give everybody what they're
7 looking for? That gives OPC what they're looking
8 for because we're not accepting this signed
9 affidavit. It gives the utility what they're
10 looking for because we're not -- it's not a
11 negative acquisition adjustment. And we -- we
12 still get to move forward. And at the time of some
13 sort of rate case, then we can deal with this sort
14 of thing.

15 MS. CRAWFORD: I -- I welcome the thoughts of
16 those of a higher pay grade.

17 (Laughter.)

18 MS. CRAWFORD: I think ultimately it doesn't
19 provide surety of what the Commission's decision
20 may be, but yes, I think the transfer can move
21 forward.

22 I would note, in that case, that the
23 clarification that the Commission is finding the
24 affidavit legally sufficient for purposes of the
25 certification, for purposes of the transfer, is

1 simply choosing not to weigh in on that for
2 purposes of the acquisition adjustment.

3 CHAIRMAN BROWN: All right. Can -- yes.

4 MR. MAUREY: I would make one -- one point,
5 agreeing with Mrs. Crawford, that the affidavit is
6 mentioned in Issue 1.

7 CHAIRMAN BROWN: Okay.

8 COMMISSIONER GRAHAM: See what -- what you
9 started?

10 (Laughter.)

11 CHAIRMAN BROWN: That -- that can always be
12 stricken from the order commensurate with our --

13 COMMISSIONER GRAHAM: Where is it mentioned in
14 Issue 1?

15 MR. MAUREY: On Page 4. The -- the second
16 paragraph.

17 COMMISSIONER GRAHAM: Oh, yeah.

18 CHAIRMAN BROWN: Signed affidavit.

19 COMMISSIONER GRAHAM: Halfway down.

20 CHAIRMAN BROWN: Would you like to all take
21 about a five-minute break?

22 COMMISSIONER GRAHAM: Sure.

23 CHAIRMAN BROWN: Okay. Let's take a five-
24 minute break and we will recess and come back.

25 Thank you.

1 (Brief recess.)

2 CHAIRMAN BROWN: I think we're just going to
3 go ahead and begin. And if our general counsel
4 needs to speak -- but I -- we've got adequate hands
5 here with Ms. Crawford and Ms. Helton and -- and,
6 of course, Danijela.

7 So, with that, I believe, Commissioner Graham,
8 you had the floor.

9 COMMISSIONER GRAHAM: Thank you, Madam Chair.
10 Ms. Crawford, can you give us what your
11 suggestions are to a motion?

12 MS. CRAWFORD: Correct, sir. Yes, if the --
13 if it's the Commission's will to address the
14 transfer today, but not address the Issue 2, which
15 is the net book value and the acquisition
16 adjustment, I believe there is sufficient latitude
17 afforded in the statute that I mentioned previously
18 to do that.

19 My suggestion would be that, since the
20 Rule 2530037 regarding transfers does require that
21 the utility provide the purchase price, however the
22 sole purpose of providing the purchase price for
23 purposes of the transfer is to make the acquisition
24 adjustment, and since the Commission seems to be
25 heading toward declining to make that determination

1 today -- I believe it can do that.

2 If it wishes to proceed with the certificate
3 at issue in Issue 1, I believe it could do so,
4 recognizing that the utility has provided the
5 information regarding the transfer that is
6 necessary for the Commission to make a
7 determination that the transfer is in the public
8 interest today, if it wishes to do so. Does that
9 make sense?

10 And then, if that is, again, the Commission's
11 will, what we would need is direction from you as
12 to how to modify the staff recommendation to
13 correctly capture the Commission's decision, should
14 we remove references to the affidavit; should we
15 simply change the language to be consistent with
16 the discussion that the Commission is declining to
17 make a determination at this time on the -- the net
18 book value and acquisition adjustment because of
19 its discomfort regarding the affidavit, we can
20 certainly capture that in the order as well.

21 CHAIRMAN BROWN: Commissioner Graham?

22 COMMISSIONER GRAHAM: If I may, Ms. Helton --
23 so, how does that roll into a motion?

24 (Laughter.)

25 MS. HELTON: I'm pondering whether you would

1 need to go back and reconsider the -- the vote on
2 Issue 1 to clarify how you want to address whether
3 we include any discussion about what information
4 was provided with respect to the purchase price, so
5 that -- I guess we would need to understand that in
6 order to be able to guide you how to go forward.

7 COMMISSIONER GRAHAM: So, I guess that comes
8 back to the Commission as a whole, if they want to
9 revisit Issue 1.

10 MR. BAEZ: Right.

11 COMMISSIONER GRAHAM: And --

12 MR. BAEZ: Move to reconsider Issue 1, first
13 of all.

14 COMMISSIONER GRAHAM: Yeah.

15 CHAIRMAN BROWN: Okay. So, thank you,
16 Commissioner Graham, for getting us there.

17 Let's -- let's -- can I take -- get a motion
18 on Issue 1 to reconsider our --

19 COMMISSIONER GRAHAM: Well, I move to
20 reconsider Issue 1 so we can address the issues as
21 stated by staff.

22 CHAIRMAN BROWN: Thank you. Is there a
23 second?

24 COMMISSIONER BRISÉ: Second.

25 CHAIRMAN BROWN: Okay. So, all those in

1 favor.

2 (Chorus of ayes.)

3 CHAIRMAN BROWN: All right. So, we voted to
4 approve Issue 1; although, Issue 1 has language
5 that references the affidavit on Page 4 of the
6 recommendation -- I don't see it anywhere else
7 other than -- Commissioner Graham, is it your will
8 to strike any reference to that affidavit?

9 COMMISSIONER GRAHAM: Well -- Ms. Crawford?

10 MS. CRAWFORD: Perhaps, what we could do is
11 craft language for the order that basically
12 commemorates the discussion here that, while the
13 affidavit was provided, the Commission ultimately,
14 I presume, didn't find it appropriate to make a
15 decision -- declined to make an issue -- a decision
16 in Issue 2, based on the affidavit.

17 We can recount that it was provided, but
18 nonetheless, say that, for purposes of Issue 1, the
19 Commission found sufficient information was
20 provided in the transfer application to make a
21 decision that the application is in the public
22 interest.

23 COMMISSIONER GRAHAM: So moved.

24 CHAIRMAN BROWN: All right. I hope the clerk
25 understood that motion.

1 Is there a second?

2 COMMISSIONER BRISÉ: Second as modified.

3 CHAIRMAN BROWN: As modified. Thank you.
4 Discussion. Commissioner Polmann?

5 COMMISSIONER POLMANN: Ms. Crawford, if I
6 understood your -- your comments, the motion would
7 be to approve -- let me look at Issue 1 here, just
8 a second -- approve the transfer.

9 Now, with regard to the -- to the affidavit,
10 are we -- by virtue of the language that's in -- in
11 the original document, including the oral
12 modification, we are recognizing that it was
13 submitted, but we're, in fact, not relying upon it,
14 not using it, but --

15 MS. CRAWFORD: That's correct.

16 COMMISSIONER POLMANN: Do we need to -- to
17 include language that says we're not relying upon
18 it? Or are we simply --

19 MS. CRAWFORD: If it's the Commission's
20 direction to staff, we can include the -- the
21 language that we're not relying on the affidavit.
22 That discussion really is more pertinent to
23 Issue 2.

24 COMMISSIONER POLMANN: Understood. Because
25 it's -- I'm looking on -- on -- in the oral

1 modification, there's language that staff agrees
2 that -- (examining document) --

3 MS. CRAWFORD: If you're talking about --

4 COMMISSIONER POLMANN: -- speaks -- speaks to
5 the net book value.

6 MS. CRAWFORD: Yes.

7 COMMISSIONER POLMANN: And I'm trying to
8 understand if -- if that arises from the
9 certificate and if that's significant to -- to
10 future proceedings. I --

11 MS. CRAWFORD: Perhaps, staff's --

12 COMMISSIONER POLMANN: If it's appropriate, I
13 would be more comfortable just in a statement from
14 the Commission that, even though we received it,
15 we're not relying upon it, if that's appropriate.

16 MS. CRAWFORD: I -- I think that can be done,
17 correct. And in fact, I note that there's some
18 language in the -- the staff recommendation
19 statements, the signed affidavit is sufficient for
20 the --

21 COMMISSIONER POLMANN: Yes, ma'am.

22 MS. CRAWFORD: You know, and so forth. And we
23 can --

24 COMMISSIONER POLMANN: I don't want to find
25 anything with regard to that document.

1 MS. CRAWFORD: Yeah, we can modify it to, I
2 think, capture what is being discussed here.

3 COMMISSIONER POLMANN: If -- if that's
4 acceptable to the -- to the motion-maker and the
5 second.

6 CHAIRMAN BROWN: So, we have a motion on the
7 floor, properly seconded, to -- to amend Issue 1 as
8 discussed here today.

9 Any further decision on anything?

10 Commissioner Brisé.

11 COMMISSIONER BRISÉ: So, question now, for
12 Commissioner Polmann, are you seeking to make an
13 amendment to the motion or is it sufficient that
14 the discussion is captured by staff so, therefore,
15 staff will, then, include that in the order?

16 COMMISSIONER POLMANN: Well, my --

17 COMMISSIONER BRISÉ: Clarification for you.
18 Just I want to know.

19 COMMISSIONER POLMANN: My point to the
20 original maker of the motion is -- I think the
21 motion that he made was to Ms. Crawford's language.
22 My comments were to her. And she said she would
23 include my comments with her original comments to
24 Commissioner Graham.

25 CHAIRMAN BROWN: Commissioner Graham?

1 COMMISSIONER GRAHAM: Yeah, I accept the
2 second as with the -- the clarification. I don't
3 think he made an amendment to it. I think he was
4 just trying to clarify with what Ms. Crawford was
5 saying.

6 CHAIRMAN BROWN: Okay.

7 COMMISSIONER POLMANN: And Commissioner Brisé
8 made that second --

9 COMMISSIONER GRAHAM: Yes.

10 COMMISSIONER POLMANN: -- correct?

11 CHAIRMAN BROWN: All right. Any further
12 discussion?

13 Seeing none, all those in favor of the motion,
14 signify by saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN BROWN: All right. Now, dealing with
17 Issue 2 and Issue 3.

18 MR. HETRICK: Madam Chair.

19 CHAIRMAN BROWN: Yes.

20 MR. HETRICK: Just to make sure that you want
21 the sentence stricken that we struck before in the
22 original motion on the water quality.

23 CHAIRMAN BROWN: The -- yeah, the movant --
24 the motion-maker says yes, and we all agree.

25 MR. HETRICK: Okay.

1 CHAIRMAN BROWN: Thank you.

2 All right. Issue 2 -- Commissioner Graham,
3 you got this one?

4 COMMISSIONER GRAHAM: Ms. Crawford. No, if
5 you would --

6 MS. CRAWFORD: Yes. What I would suggest,
7 based on the discussion that I've heard, is that
8 the Commission make a determination, if it's its
9 will, to decline to address net book value and an
10 acquisition adjustment at this time; that that
11 matter will be taken up at the next rate proceeding
12 for this utility.

13 COMMISSIONER GRAHAM: And any suggestion or
14 tie-back to the signed affidavit, even though it
15 was received, it was not used?

16 MS. CRAWFORD: Correct.

17 COMMISSIONER GRAHAM: Correct. That's my
18 motion.

19 CHAIRMAN BROWN: That's your motion. I hope
20 the clerk heard that, and it's clear.

21 Is there a second?

22 COMMISSIONER POLMANN: Second.

23 CHAIRMAN BROWN: Second.

24 Any further discussion on the motion on Issue
25 2?

1 Seeing none, all those in favor, say aye.

2 (Chorus of ayes.)

3 CHAIRMAN BROWN: Opposed?

4 Now, Issue 3 is just to close the docket. Can
5 I get a motion, please, on Issue 3?

6 COMMISSIONER POLMANN: So moved.

7 CHAIRMAN BROWN: Is there a second?

8 COMMISSIONER GRAHAM: Second.

9 CHAIRMAN BROWN: All those in favor, say eye.

10 (Chorus of ayes.)

11 CHAIRMAN BROWN: That concludes this docket.

12 Thank you for all of your time and everyone's
13 participation in it. Didn't anticipate it going
14 this long.

15 MR. DETERDING: Thank you.

16 CHAIRMAN BROWN: Thank you.

17 We will be having -- this concludes our agenda
18 conference. We will be having internal affairs in
19 this room in three minutes. Don't go anywhere.
20 Thank you. It will be brief.

21 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, Court Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 1 through 59, are a true and correct record of the aforesaid 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' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 24th day of July, 2017.



ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #GG060963
EXPIRES February 9, 2021