

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20180215-WS

PETITION FOR LIMITED  
ALTERNATIVE RATE INCREASE  
IN HIGHLANDS COUNTY BY LP  
WATERWORKS, INC.

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In the Matter of:

DOCKET NO. 20180216-WU

PETITION FOR LIMITED  
ALTERNATIVE RATE INCREASE  
IN LAKE COUNTY BY LAKE  
IDLEWILD UTILITY COMPANY.

In the Matter of:

DOCKET NO. 20180217-WS

PETITION FOR LIMITED  
ALTERNATIVE RATE INCREASE  
IN SUMTER COUNTY BY JUMPER  
CREEK UTILITY COMPANY.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NOs. 5, 6, and 7

COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, April 2, 2019

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

REPORTED BY: ANDREA KOMARIDIS  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large

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

2 CHAIRMAN GRAHAM: Okay. Let's swing back  
3 around to Items 5, 6, and 7.

4 MR. SMITH: Good morning, Commissioners. Lee  
5 Smith with Commission staff.

6 Items 5, 6, and 7 are staff's recommendations  
7 addressing LP Waterworks, Lake Idlewild, and Jumper  
8 Creek's applications for a limited alternative rate  
9 increase under Rule 25-30.457. All three utilities  
10 are Class C utilities. And staff has determined  
11 that all three meet the eligibility requirements  
12 under this rule.

13 The rule allows an eligible utility to apply  
14 for an increase in rates no greater than  
15 20 percent. Customer meetings were held for each  
16 utility, and staff has received no additional  
17 customer comments.

18 Representatives of OPC and the utilities are  
19 present to address the Commission on all three --  
20 on all these items. Staff is available to answer  
21 any questions you may have at this time.

22 CHAIRMAN GRAHAM: Thank you, staff.

23 OPC?

24 MR. DAVID: Yes, Tad David on behalf of the  
25 citizens of the State of Florida, making appearance

1 for myself and also for J.R. Kelly, Public Counsel.

2 The OPC is not going to object or oppose the  
3 requested rate increase in this particular docket  
4 or the next two, and -- however, we must note that  
5 the rule under which the rate increase is granted  
6 doesn't really have an objective cost-based method  
7 by which to approve the increase or set a specific  
8 rate.

9 Without such cost basis, the entitlement to  
10 and the amount of the increases under the relevant  
11 rule would appear to be somewhat arbitrary or  
12 vague.

13 We have had conversations with the -- the  
14 general counsel, PSC general counsel, regarding our  
15 concerns. And in the coming weeks, we -- we are  
16 planning to work with Mr. Hetrick and his staff,  
17 and we anticipate developing suggestions and -- and  
18 possible amendments to the rule that will address  
19 our concerns and any apparent deficiencies.

20 Thank you.

21 CHAIRMAN GRAHAM: Thank you.

22 Mr. Rendell?

23 MR. RENDELL: Good morning, Commissioners.

24 Troy Rendell with U.S. Water Services here on -- to  
25 address Items 5, 6, and 7. I'll -- I'll divide my

1           comments in two. One is I'm -- I have some brief,  
2           specific concerns with staff's recommendation,  
3           although I generally agree with it. And I'd like  
4           to address Office of Public Counsel's concerns as  
5           well.

6                     To give you a brief history, I had the  
7           privilege of bringing this rule to the Commission  
8           back in 2005 when I was on staff at the Commission.  
9           And I worked closely with Office of Public Counsel  
10          on the rule. We actually made some -- some  
11          provisions in the rule to address some of Office of  
12          Public Counsel's concerns by adding a customer  
13          meeting and -- and certain i- -- other items.

14                    The rule was adopted to give the Class Cs a  
15          quicker avenue to get rate relief, recognizing that  
16          staff-assisted rate cases take quite a bit of time,  
17          it takes quite a bit of effort on both the staff  
18          and the utilities to go through an audit and  
19          engineering.

20                    So, there were -- there are provisions in the  
21          rule that allow the staff to make -- make their  
22          analysis based on the utilities' annual reports,  
23          their books and records.

24                    And it's not just a checklist that you  
25          automatically get it. The staff could come and

1 recommend, you know, 10 percent or 2 percent, or  
2 they can recommend denial if it appears that, based  
3 on the financial records of the utility, they would  
4 over-earn. So, this -- it's -- that's a brief  
5 history.

6 I look forward to working with Office of  
7 Public Counsel to better the rule because the items  
8 I'm specifically addressing would -- would be -- be  
9 open to providing some additional comments in the  
10 rule, itself.

11 My items that I am bringing up is the security  
12 item and the reporting item. The -- the rule, as I  
13 mentioned before, was adopted in 2005. It's only  
14 been used twice in 2006 by Pine Crest and  
15 Brendanwood. In those two dockets, the Commission  
16 approved increases. They did not al- -- they did  
17 not require security or reporting.

18 We have provided security. We were fortunate  
19 enough to have shareholders that have the financial  
20 wherewithal to provide security, but I'm concerned  
21 that other utilities out there, other small  
22 Class Cs, may not have -- may not be afforded  
23 that -- that luxury of having some type of  
24 security. So, I just want to bring that comment.

25 The other is the reporting. The reporting, I

1 believe, would be a burdens- -- burdensome to the  
2 utility. Since the -- the rates would go into  
3 effect this year, they'll be held subject to refund  
4 15 months after the annual report is filed in the  
5 year in which the rules go into effect.

6 So, for instance, if the rules go into effect  
7 this, in 2019, we file the annual report in, say,  
8 March of 2020, well, then it's held subject to  
9 refund for another 15 months. So, we're looking at  
10 over two years of reporting on a monthly basis.

11 I -- I could work with -- I talked with staff  
12 and, you know, we could come to a compromise of  
13 maybe the total amount of revenue collected, but at  
14 the end of the day, any refund would be if a u- --  
15 if a utility earns above its allowed return on  
16 equity. So, that amount would not even be  
17 determined for another year and a half.

18 So, those are my comments. I don't want to  
19 hold up the approval of the increase, obviously,  
20 but I -- I felt compelled to make those comments on  
21 the record. Thank you.

22 CHAIRMAN GRAHAM: Thank you, sir.

23 Mr. Hetrick, did you have any comment?

24 MR. HETRICK: Well, we have had discussions,  
25 Mr. Chair, with OPC about looking at this rule. We

1 don't have any proposals to bring before the  
2 Commission. We're always happy to talk about the  
3 rules and -- and the criteria, the eligibility  
4 criteria here. So, we'll meet with the -- OPC and  
5 the utilities and, if something comes of it, we'll  
6 report back to you.

7 CHAIRMAN GRAHAM: Okay. Thank you.

8 Commissioners, any questions of OPC, the  
9 parties, the staff, or me?

10 COMMISSIONER POLMANN: Yes. Thank you,  
11 Mr. Chairman.

12 Question for staff or counsel: Regarding the  
13 rule, in the comments by Mr. Rendell, he raised  
14 issues regarding security and also reporting. Can  
15 you elaborate, please, or comment whether issues of  
16 security or reporting are addressed at all in the  
17 rule?

18 MS. DZIECHCIARZ: Yes, Commissioner. The  
19 issue for the security and the reporting is  
20 actually in the refund rule, which is  
21 Rule 25-30.360; however, that rule is directly  
22 referenced within the limited alternative rate  
23 increase rule. I believe it's Subsection 12. So,  
24 that's where all of the extra requirements are  
25 coming from.

1           COMMISSIONER POLMANN: Okay. So, does the  
2 rule that we're using for this rely upon that?  
3 It's a -- it's a reference -- so, essentially  
4 you're employing the second rule you mentioned in  
5 order to -- to effectuate what we're doing here.

6           MS. DZIECHCIARZ: Exactly, yes. The refund  
7 rule is helping to facilitate that part of the --  
8 the "Larry" -- the late -- the --

9           COMMISSIONER POLMANN: Okay.

10          MS. DZIECHCIARZ: The reporting requirements.

11          COMMISSIONER POLMANN: So, there's direct  
12 authority --

13          MS. DZIECHCIARZ: Yes, Commissioner.

14          COMMISSIONER POLMANN: -- you're referencing.

15          MS. DZIECHCIARZ: Yes.

16          COMMISSIONER POLMANN: Okay. With regard to  
17 the 20 percent -- that's not an automatic, as  
18 Mr. Rendell indicated; that staff could recommend  
19 any particular percentage, as I understand it.

20          MS. DZIECHCIARZ: That's correct, yes. It's  
21 up to 20 percent. So, staff has discretion if they  
22 would like to have a lower amount.

23          COMMISSIONER POLMANN: Okay. And then the --  
24 it's clear, just reflecting on that, that the  
25 monitoring -- again, coming from the referenced



1 rule -- is there a frequency that's identified as  
2 monthly or is there a discretion in that as well?

3 MS. DZIECHCIARZ: There's monthly frequency  
4 within the refund rule.

5 COMMISSIONER POLMANN: Okay. So, that is a  
6 rule-based frequency. All right. Thank you.

7 MS. DZIECHCIARZ: Yes.

8 CHAIRMAN GRAHAM: Commissioner Fay.

9 COMMISSIONER FAY: Thank you, Mr. Chairman.  
10 Mr. Rendell, are there additional costs to  
11 prepare those monthly reports?

12 MR. RENDELL: For these particular utilities,  
13 no, there would not be. It's something I would be  
14 doing personally. I just think that, like I said  
15 before, it wasn't contemplated.

16 The rule was supposed to be similar to the  
17 index rule. And there's specific provisions in  
18 367.081 that exclude this type of -- or index from  
19 the -- the security issue. It's basically based on  
20 a finding of good cause, including inadequate  
21 service.

22 So, the rule was supposed to mirror the index  
23 rule at the time. So, it was really never  
24 contemplated out of either security or the monthly  
25 reporting.

1           COMMISSIONER FAY: Okay. And I read your  
2 responses to -- to five and six, based on the  
3 customer information. I won't call them  
4 necessarily complaints. They were comments from  
5 the customers. And I thought, in both of those,  
6 you did a very good job.

7           And your -- I mean, your name is on the paper,  
8 your signature is on there that you responded  
9 specifically to those issues related to the -- the  
10 water pressure and some of the other things that  
11 had come up. So, I think -- I think you're doing a  
12 great job.

13           And I think the -- the purpose of this, from  
14 what I interpret in the rule, is to create  
15 efficiencies of this process to have that increase.  
16 And the alternative would be for you to come before  
17 the Commission in a more-formal proceeding to ask  
18 for potentially a higher request than that  
19 20 percent; is that -- is that correct?

20           MR. RENDELL: That's correct. And one  
21 specific one, in LP -- I don't know which item that  
22 is. If I -- I -- if I came in for a staff-assisted  
23 rate case, the increase could be anywhere from  
24 40 percent. So, this is half of the amount we  
25 would be entitled to under a staff-assisted rate

1 cases.

2 COMMISSIONER FAY: Okay. Great.

3 With that, I would move to -- Commissioner  
4 Polmann, go ahead.

5 CHAIRMAN GRAHAM: Commissioner Polmann.

6 COMMISSIONER POLMANN: Thank you,  
7 Mr. Chairman.

8 Just a closing comment. I -- I do appreciate  
9 both Public Counsel and -- and the utilities, even  
10 though there's -- concern has been raised that  
11 you're not objecting to the -- to the item moving  
12 forward, and also your effort to discuss the rule  
13 more cooperatively, to review with our Counsel  
14 issues that you're concerned about in the context  
15 of the rule -- come forward, review that, and enter  
16 into some -- some consideration whether or not  
17 revision would -- would be appropriate as the next  
18 step rather than coming forward and trying to  
19 challenge this item or the rule. So, I very much  
20 appreciate your -- your intention there.

21 And Commissioner Fay was about to make the  
22 motion. I'll -- I'll make the motion to -- to  
23 approve staff recommendation and --

24 COMMISSIONER FAY: Mr. Chairman, we'll do  
25 five, six, and seven separately? Is that your --

1 is that your preference or --

2 CHAIRMAN GRAHAM: We'll do them all together.

3 COMMISSIONER FAY: Do them all together?

4 Okay. Well, then --

5 COMMISSIONER POLMANN: Then I will clarify  
6 moving Items 5, 6, and 7, staff recommendation on  
7 all issues.

8 COMMISSIONER FAY: I'll second that motion.

9 CHAIRMAN GRAHAM: It's been moved and second,  
10 staff recommendations on Items 5, 6, and 7, on all  
11 issues. Any further discussion?

12 Seeing none, all in favor, say aye.

13 (Chorus of ayes.)

14 CHAIRMAN GRAHAM: Any opposed?

15 By your action, you've approved that motion.

16 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, ANDREA KOMARIDIS, Court Reporter, do hereby  
certify that the foregoing proceeding was heard at the  
time and place herein stated.

IT IS FURTHER CERTIFIED that I  
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attorney or counsel connected with the action, nor am I  
financially interested in the action.

DATED THIS 11th day of April, 2019.



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