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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20190080-WS

Application for limited proceeding rate
increase in Brevard County, by Aquarina
Utilities, Inc.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 6

COMMISSIONERS
PARTICIPATING: CHAIRMAN GARY F. CLARK
COMMISSIONER ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, May 5, 2020

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

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

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 CLARK: All right. Item No. 6, Mr.
3 Futrell.

4 MR. FUTRELL: Item 6 is staff's recommendation
5 on the application by Aquarina Utilities,
6 Incorporated, for a rate increase through a limited
7 proceeding.

8 Aquarina is Class B utility providing service
9 to 320 potable water, 119 non-potable water, and
10 342 wastewater customers in Brevard County.

11 The Commission last set revenue requirements
12 and associated rates in April 2019.

13 Aquarina is seeking to reallocate its approved
14 revenue requirement due to Aquarina Golf,
15 Incorporated, a large irrigation customer, leaving
16 the system in August 2019, and to recover costs
17 associated with certain capital improvements that
18 have taken place since the last rate case.

19 A customer meeting was scheduled for March 26,
20 2020, but had to be canceled due to travel
21 restrictions because caused by the pandemic.
22 Customers were notified of the cancellation and
23 advised that they may provide comments via letter,
24 email, phone, FAX or through the Commission's
25 website. 19 customers have filed comments in the

1 docket, 16 of which expressed concern regarding the
2 utility's proposed rates.

3 Staff recommends the Commission approve the
4 utility's Alzheimer's limited request for the
5 adjustments as discussed in the recommendation.

6 Customers of the utility and the Office of
7 Public Counsel would like to address the
8 Commission. Representatives of the utility are
9 available to respond to comments and questions, and
10 staff is available as well.

11 CHAIRMAN CLARK: Okay. We are going to
12 proceed with a couple of comments.

13 Mr. Friedman, we are going to give you an
14 opportunity to speak. We are going to follow that
15 up with OPC. You will have a chance to address the
16 Commission. Then we have several customers who
17 have asked to speak. I will call the list of
18 customers out by name that I have in front of me.

19 For all those customers on the line, we are
20 going to ask that you please limit your comments to
21 about two minutes. We are going to give you two
22 minutes to address. We have several folks that are
23 wanting to be heard.

24 Also, please be aware of the comments that are
25 made previous. If you have something new to add,

1 that absolutely wonderful, but the same thing over
2 and over, we would just prefer that you just pass
3 on that time, if you would, so we can get through
4 everybody and make sure that everyone gets a chance
5 to be heard today.

6 So with that said, we will open it up to Mr.
7 Friedman, representing Aquafina -- Aquarina. I am
8 sorry.

9 Mr. Friedman.

10 MR. FRIEDMAN: Thank you, Mr. Chairman,
11 Commissioners. This is Marty Friedman on behalf of
12 Aquarina Utilities.

13 We are generally okay with the staff
14 recommendation, but I -- so I would like to just
15 have an opportunity after the OPC and the customers
16 comment to respond to any comments they have.

17 Thank you.

18 CHAIRMAN CLARK: Thank you, Mr. Friedman.

19 Ms. Morse or Mr. Kelly, are you on the line to
20 represent OPC?

21 MS. MORSE: Yes, Ms. Morse is on the line.

22 CHAIRMAN CLARK: Ms. Morse, you have the
23 floor.

24 MS. MORSE: Thank you. Good morning,
25 Mr. Chair and Commissioners. This is Stephanie

1 Morse with the Office of Public Counsel, and I
2 thank you for the opportunity to come comment.

3 First, OPC would like to clarify the portion
4 of the staff recommendation at the end of page two,
5 which might inadvertently leave the impression that
6 the customers who submitted comments to the docket
7 as of April 15th did not respect the concerns of
8 the quality of the water provided by Aquarina.

9 To clarify, on April 9, customer Podesta
10 submitted a written complaint in the docket file in
11 which she stated, quote: "The water provided by
12 the utility is already undrinkable, sickening many
13 who drink it, myself included." End quote.

14 Additionally, an undated review of the docket
15 shows that on April 30th, 2020, customer Melat
16 submitted comments complaining among a list of
17 other issues, quote: "Poor quality drinking water
18 jeopardizing our health. We filter three times and
19 buy water." End quote.

20 Next, OPC has to disagree that the utility's
21 loss of the golf course customer resulted in a
22 forced abandonment such that the customers should
23 shoulder the cost that -- the cost the utility
24 seeks to recover regarding the non-potable water
25 service related to the golf course irrigation.

1 The customers have expressed concerns that
2 they have experienced years of poor, unreliable
3 non-potable water irrigation and fire service even
4 before -- since before Aquarina's last rate case.
5 Customers indicated -- customers indicated the
6 utility often did not provide enough water to
7 maintain the golf course, much less the related
8 fire suppression system. So not only was the golf
9 course degrading and at risk of bankruptcy, but
10 they were afraid that in the event of a house fire,
11 there might not be enough water available to put
12 out a fire because of lack of consistency in the
13 utility's provision of adequate water.

14 This is documented in your 2016 order, where
15 you found the utility's quality of service to be
16 marginal due in part to the lack of water for fire
17 suppression and the low pressure related to
18 irrigation, Aquarina Order 16-0583.

19 The customers submit it's not reasonable for
20 them to pay the full cost of the consequences of
21 the utility's failure to properly maintain and
22 operate the non-potable system. And if anything,
23 the customers were the ones who were forced into
24 finding a reliable source of irrigation and fire
25 suppression.

1 The customers, and not Aquarina, took it upon
2 themselves to rectify these problems. The solution
3 came at a huge cost in the customers. You can see
4 from the comments received in the docket that the
5 HOA had to go into debt to build their own
6 irrigation well to obtain the reliable irrigation.

7 Commissioners, a forced abandonment typically
8 happens when action is out of a utility's control,
9 as explained in Aloha order PCS 1999-1917, and
10 further explained in the UIF Sandalhaven case,
11 where a DEP consent order required the utility to
12 decommission the treatment plant.

13 As such, this is not a situation involving
14 forced abandonment, because it was Aquarina's own
15 failures that resulted in the costs to which the
16 customers now object. This is not a case where the
17 government forced Aquarina to shut down or to stop
18 using certain facilities. In fact, on page three
19 of its application, Aquarina concedes it is not
20 seeking to recover costs required by a governmental
21 or regulatory agency. Therefore, if anything, a
22 more accurate description of the situation Aquarina
23 created for itself is self-inflicted abandonment,
24 not forced abandonment.

25 In the same way that utilities are not

1 guaranteed a certain profit simply because the
2 Commission authorizes a certain range of return on
3 equity, a utility is not guaranteed revenue or
4 customers where it repeatedly fails to adequately
5 deliver -- adequately deliver the basic product
6 it's obligated to provide.

7 The Commission has previously agreed with the
8 principle that under rate base regulation,
9 investors bear the risk of the success or failure
10 of enterprise, including the impact of things like
11 customer usage and market risk. This was
12 articulated in the Utilities, Inc. Order 03-1440.

13 The Commission has previously stated that
14 ratepayers should not have to assume costs
15 associated with risk that a utility takes. And
16 that was outlined in the investigation of Sunshine
17 Utilities in Order No. 21629.

18 Finally, to the management audit ordered in
19 Aquarina's last rate case, among other things, the
20 purpose of the staff's audit was to determine
21 whether internal controls were in place sufficient
22 to protect the customers and determine whether
23 Aquarina's operations were performed in an
24 efficient and effective manner.

25 The utility refused to discuss staff findings

1 at the April 20th, 2018, Agenda Conference. When
2 asked about the management audit, counsel for the
3 utility stated quote: "It would probably be better
4 dealt with in the context of the next phase rate
5 increase rather than in connection with granting an
6 extension of time." That response is found on page
7 13 of the transcript for the April 20, 2018, Agenda
8 Conference.

9 Based on that statement in the hearing, OPC
10 requested an update at the next phase rate
11 adjustment, if not sooner. Nonetheless, when asked
12 about it at the next phase in 2019, despite the
13 utility's assurances that it would discuss the
14 findings at the next phase, Aquarina yet again
15 declined to provide any information about any
16 action it had taken on the recommendation in the
17 staff audit. That exchange is found on page six of
18 the Agenda Conference transcript for April 2, 2019.

19 Therefore, OPC again requested an update from
20 the utility regarding whether it has implemented
21 any of the Commission staff management audit
22 recommendations. OPC respectfully requests that
23 the Commission include in its order a requirement
24 for the utility to file a report in the docket on
25 the progress, if any, the utility has made in

1 addressing the management issues noted by staff in
2 the management audit.

3 The reason for Aquarina's most recent -- the
4 reason that their rate -- last rate increase was
5 handled in phases was because of the utility's
6 failure to timely complete projects for which it
7 requested proforma treatment and inclusion in rate
8 base. Therefore, the Commission requested
9 documentation and invoices for work completed in
10 order to approve phases of the rate increase.

11 This procedure was designed to protect
12 customers by preventing the cost of those proforma
13 projects onto their bill.

14 So to close, OPC requests the Commission find
15 Aquarina's loss of the golf course customer did not
16 result in a forced abandonment and that the related
17 costs should be excluded in rate base.

18 OPC further requests the Commission find
19 Aquarina's quality of service marginal, and order
20 the utility to file a report to the docket
21 outlining any action taken to address the items
22 raised in staff management audit.

23 Thank you for your attention to this case,
24 Commissioners.

25 CHAIRMAN CLARK: Thank you, Ms. Morse.

1 Okay. We have several customers that are --
2 we are going to allow to speak. I am going to call
3 your name and give you an opportunity to address
4 the Commission. At the end, I will see if there is
5 any that are not on my list that are also on the
6 line planning to speak this morning.

7 So let's remind you to please unmute your
8 phone when I call your name, please.

9 Joyce Malakoff, are you on the line?

10 Okay, we will move to the next one.

11 Edward Shanahan.

12 John Miller.

13 MR. MILLER: Hello, Commissioners.

14 CHAIRMAN CLARK: Yes, Mr. Miller.

15 MR. MILLER: Good morning.

16 CHAIRMAN CLARK: Good morning.

17 MR. MILLER: This is -- this is John Miller.

18 Briefly, I just wanted to say in the
19 April 23rd PSC memorandum, on page one under case
20 background, it states this, and I quote: "The
21 utility is seeking recognition of capital
22 improvements that have taken place since the last
23 rate case."

24 Now, my purpose in speaking to you today is to
25 request that when travel is once again feasible,

1 your order -- you order an on-site investigation of
2 this claim as we continue to see little evidence of
3 improvements; and further, we see a continuation of
4 services at insufficient and inconsistent levels
5 and very poor water quality. We request that a
6 decision on a rate increase be postponed until this
7 is -- this is able to happen.

8 COMMISSIONER GRAHAM: Okay. Thank you,
9 Mr. Miller.

10 Sandra Podesta.

11 Rob Signer [sic], Siegner.

12 Jack or Janet Meehan.

13 David or Judith Rising.

14 Susan or Justin Melat.

15 Ed Muendel.

16 David Keith.

17 MR. KEITH: Hello, this is David Keith.

18 CHAIRMAN CLARK: Mr. Keith, you are
19 recognized.

20 MR. KEITH: Thank you very much.

21 This questions goes to PSC staff. I am
22 looking at the report dated April 23rd, 2020, which
23 I am assuming you guys have in front of you.

24 On page two, Issue 1, the staff report lists
25 percentage increases that they saw as allowable.

1 These were as follows: Potable water 1.54 percent.
2 Water/wastewater, 0.77 percent. Non-potable
3 irrigation water, 0.85 percent. In other words,
4 these are all on the order of one percent.

5 However, if we go to the last two pages of the
6 report, Schedule 4B, pages 29 and 30, the report
7 shows substantially higher increases. I calculated
8 these on the basis of marginal cost of a thousand
9 gallons as follows, first page, 29, potable water
10 15 percent, not 1.5 percent. Non-potable water,
11 10 percent, not 0.8 percent.

12 And under that, following page, 30,
13 water/wastewater/sewer, 20 percent, not 0.77
14 percent.

15 And PSC staff please -- (INAUDIBLE) -- thank
16 you.

17 CHAIRMAN CLARK: Are you still there,
18 Mr. Keith? I think we lost him.

19 MR. KEITH: Yes, sir, I was finished.

20 CHAIRMAN CLARK: Okay. I am sorry.

21 I think we can address that. I think there is
22 a difference in the rate in the revenue
23 requirement.

24 Mr. Futrell, would you address that, please?

25 MR. FUTRELL: That's exactly right,

1 Commission -- Mr. Chairman.

2 The data that Mr. Keith referenced on page two
3 of the recommendation is referencing the total
4 dollars in the revenue requirement, and the
5 percentage change in the revenue requirement. And
6 then the point he made on Schedule 4A relates to
7 the rates. And there can be a difference in the
8 percentages in how you allocate the revenue
9 requirement to the different -- different customer
10 classes, or the different meter sizes.

11 CHAIRMAN CLARK: Good. Thank you, Mr.
12 Futrell.

13 All right. Are there any other customers on
14 the line that have requested to address the
15 Commission?

16 Okay. Seeing none, we will go back, Mr.
17 Friedman, I will give you an opportunity to briefly
18 respond.

19 MR. FRIEDMAN: Thank you, Mr. Chairman. I
20 hope to briefly comment.

21 I would just point out that -- that the
22 irrigation rates, the loss of the irrigation
23 customer is the direct result of the substantial
24 increase in the irrigation revenue requirement in
25 the last rate case.

1 As you may recall, for the first time, the
2 Commission set a separate revenue requirement for
3 the irrigation system as a stand-alone system, and
4 in doing so, it resulted in a substantial increase
5 in irrigation rates, and that directly resulted in
6 the largest irrigation customer, being the golf
7 course, deciding that it was more financially
8 feasible to install their own irrigation system.
9 And that was something that we cautioned that we
10 thought might happen at the agenda, and had
11 requested that since the irrigation system also
12 supported the fire flow, all the fire hydrants are
13 on that system, that it was appropriate to
14 reallocate some of that revenue requirement
15 elsewhere.

16 That -- that argument I made was not
17 successful, and as a result the irrigation rates
18 were so high we lost, to answer you, the largest
19 irrigation customer we have. And as a result,
20 that's -- that's principally what we have asked to
21 do in this case.

22 As you saw, the actual revenue increase from
23 the proforma projects are nominal. But what we are
24 asking is that the water and wastewater customers
25 shoulder the burden of the irrigation -- the fire

1 protection system, which benefits all of them;
2 whereas, in the past, the irrigation customers have
3 been paying the whole cost of the -- of the fire
4 suppression system.

5 So we think the staff did the appropriate
6 thing in reallocating some of that revenue
7 requirement to people that -- or to customers
8 benefited from that. So I think the staff did a
9 good job of kind of balancing all the various
10 interests, and while it's not exactly what we
11 wanted, I think it's -- it is a good balance.

12 Thank you.

13 CHAIRMAN CLARK: Thank you, Mr. Friedman.

14 Okay. Commissioners, it's open for your
15 discussion. Any questions, comments or concerns?

16 COMMISSIONER POLMANN: Mr. Chairman.

17 CHAIRMAN CLARK: Commissioner Polmann.

18 COMMISSIONER POLMANN: Thank you, Mr.

19 Chairman.

20 This meeting, a limited proceeding, although
21 we have discussion in the staff analysis on water
22 quality and -- and -- am I echoing? We do have
23 customer comments and complaints on water quality.
24 Is it my understanding -- am I correct in that in a
25 limited proceeding, we do not have an opportunity

1 to take into account water quality issues as it
2 relates to evaluation and judgment, if you will,
3 for a penalty, for example?

4 CHAIRMAN CLARK: In other words, could we --
5 could we dock their ROE on so many basis points?
6 That's Commissioner Polmann's question. I don't
7 think so.

8 Mr. Hetrick, is that your answer?

9 MR. HETRICK: Typically we do not consider
10 water quality in a limited proceeding, but I would
11 like Charlie Murphy to chime in a little bit
12 further.

13 CHAIRMAN CLARK: Okay. Mr. Murphy, are you on
14 the line? Mr. Murphy?

15 MR. MURPHY: I'm sorry, can you hear me now?

16 CHAIRMAN CLARK: Yes, sir. We can hear you
17 now.

18 MR. MURPHY: Okay. We typically look at, you
19 know, DEP kind of complaints and those sorts of
20 things, but the type of analysis that Mr. Hetrick
21 referred to, we do not do in limited proceedings.

22 CHAIRMAN CLARK: Commissioner Graham for a
23 question.

24 COMMISSIONER GRAHAM: I guess my question is,
25 we normally don't do it. That doesn't mean that we

1 legally cannot do it. My understanding was
2 whenever they come in for any sort of funds and we
3 run into a quality problem, we can -- we can adjust
4 their -- their rates at that point for any -- just
5 as long as it's a quality issue.

6 COMMISSIONER BROWN: Correct.

7 CHAIRMAN CLARK: Adjust the rate or ROE, that
8 would be my question.

9 MR. HETRICK: I think it would be more the ROE
10 than the rate. However, Jennifer, are you on? Can
11 you pipe in generally on this issue?

12 MS. CRAWFORD: Thank you. Yes, sir.

13 This is Jennifer Crawford, Commissioners.

14 With limited proceedings, we generally hold
15 ourselves to the issues that are raised in a
16 limited proceeding. If quality of service is a
17 particular issue to that limited proceeding, we can
18 of course explore it in more depth. But typically,
19 since you are not doing a full blown rate
20 proceeding, and not looking at all the elements
21 that one typically does in rate settings, I
22 wouldn't expect that we would typically make that
23 adjustment in the context of a limited proceeding.
24 However, the Commission always has the discretion
25 if it identifies a quality of service issue to ask

1 staff to investigate or adopt it, as appropriate,
2 to explore that issue.

3 MR. HETRICK: And if I might, Mr. Chairman.

4 Jennifer, can you follow up with the
5 appropriate procedure? If water quality did come
6 up in a limited proceeding before the Commission,
7 would we typically open a separate docket on that
8 matter, or can the Commission consider -- my
9 concern is we don't really have a record on the
10 quality of service right now for the Commission to
11 take action.

12 So if Commissioner Graham or any of the
13 Commissioners were predisposed to look into the
14 water quality issue further in this case, would the
15 appropriate procedure be to have the Commission
16 direct staff to open a separate docket on this, or
17 would it be to consider it and, you know, defer
18 this case and open up a water quality issue in
19 connection with this matter?

20 MS. CRAWFORD: Correct. To the extent that
21 this limited proceeding doesn't -- hasn't focused
22 on quality of service, and we don't have
23 information upon which the Commission could really
24 make a decision at this time, I think it would be
25 better to open a separate docket. If, instead, the

1 limited proceeding had focused on a quality of
2 service issue, I would expect that staff would have
3 presented information to the Commission sufficient
4 to make a decision at this time, however.

5 CHAIRMAN CLARK: Great point.

6 All right. Commissioner Polmann, we are
7 coming back to you.

8 COMMISSIONER POLMANN: Yes, thank you.

9 I appreciate the legal discussion on that. I
10 raised the issue because it was my understanding in
11 a limited proceeding that perhaps there was --
12 well, I will just frame it that I was unaware that
13 we -- that we had addressed a penalty issue, or
14 something of that nature in a limited proceeding,
15 but I -- but I think that the legal staff has
16 addressed it for me.

17 The reason I brought it up is because I -- I
18 was hearing comments and concerns about water
19 quality, but I didn't see what I would consider
20 major discussion here, or a high level of customer
21 complaints I want to just visit. I recognize that
22 there is concern, but I didn't feel that I had
23 sufficient information in order to recommend that
24 we take action.

25 I just thought -- I wanted to acknowledge it

1 on the record that there was some concern, but I
2 didn't believe it rose to the level of a penalty,
3 given what I -- I see here in the record today. I
4 don't have a feeling that I am going to suggest to
5 my colleagues further investigation at this
6 juncture.

7 Thank you.

8 CHAIRMAN CLARK: Thank you, Commissioner
9 Polmann.

10 Any other commissioner comments or questions?

11 Commissioner Fay.

12 COMMISSIONER FAY: Thank you, Mr. Chairman.

13 I have a quick question for staff, just based
14 on OPC's comments, and I think specifically it's
15 page four of the recommendation, if they could
16 speak to the process of determining if something is
17 deemed a forced abandonment asset under these
18 circumstances, because the analysis speaks to the
19 prudence at the time, but that I think some of
20 OPC's comments, based on the precedent of the
21 Commission, is that there are other circumstances
22 where this would, by itself, be deemed a forced
23 abandonment.

24 CHAIRMAN CLARK: Mr. Futrell, you want to
25 address it?

1 MR. FUTRELL: Could the -- could the staff who
2 addressed the forced abandonment portion of the
3 recommendation please respond to that question?

4 MR. FLETCHER: This is Bart Fletcher. I can
5 speak to that.

6 On the forced abandonment, staff characterized
7 it as forced abandonment because, first of all,
8 whenever the plant was put into service, in order
9 to serve their largest irrigation customer, the
10 golf course at the time, those were prudent
11 investments in order to serve that of
12 non-irrigation -- or non-potable water customer,
13 the golf course. And the fact that the later,
14 after they were put in place -- placed into
15 service, that the customer declined service and was
16 no longer a customer for which the previous plan
17 investment was devoted to serve, staff
18 characterized it as a force because that was beyond
19 the utility's control of losing that customer. It
20 was their -- they were the customer. They chose --
21 no longer chose service, so that's the reason why
22 staff characterized it as a forced abandonment.

23 However, even if you don't characterize it as
24 a forced abandonment, the rule states in 25-30.433
25 provision (10), it states that upon forced

1 abandonment or for a prudent retirement of plant
2 assets.

3 So even if you -- we characterized it that way
4 because the customer, the golf course, chose to no
5 longer receive service, so that was beyond the
6 utility's control, and we characterized it that
7 way. Even if it's not that's not the -- the
8 Commission deems that's not the correct
9 characterization, it still is a retirement of
10 prudent assets. They were devoted to public
11 service at one time, so there is still a prudent
12 retirement, and it gives the same effect in that
13 provision (10) of the rule to calculate the
14 unrecovered portion of that previous investment of
15 about \$8,700.

16 So anyway, those are staff comments about why
17 we characterized it as a forced abandonment.
18 However, if the Commission -- again, if they choose
19 to go that way from that characterization, it's
20 still a prudent requirement under that provision of
21 the rule, it could be treated the same.

22 COMMISSIONER FAY: Thank you. I appreciate
23 all of that. And I think just -- just from what I
24 wanted clarification on is that at this point we
25 are not doing an additional prudence analysis. The

1 Commission that saw this previously made this
2 decision based on the facts that were in front of
3 them that they deemed best and, at that time,
4 deemed it prudent, so I think you -- you answered
5 the question. I just want to be clear that we are
6 not -- we are not reviewing again a second time for
7 that prudence.

8 And the other just quick point I want to make,
9 Mr. Chairman, is -- and Commissioner Polmann said
10 it very well, but when you go through the number of
11 comments that were filed in this docket, which were
12 a good amount considering the number of customers,
13 I think there were some valid points raised, some
14 of them being outside the scope of a limited
15 proceeding, but still valid to our analysis going
16 forward. So I appreciate the participation of the
17 customers in this hearing.

18 That's all I have. Thank you.

19 CHAIRMAN CLARK: Thank you, Commissioner Fay.
20 Commissioner Brown.

21 COMMISSIONER BROWN: Mr. Chairman.

22 UNIDENTIFIED SPEAKER: Mr. Chairman -- Mr.
23 Chairman, can you hear me? This is one of
24 residents. I wasn't able to --

25 CHAIRMAN CLARK: Yes, ma'am. I'm going to

1 come --

2 UNIDENTIFIED SPEAKER: -- speak when you
3 called my name.

4 CHAIRMAN CLARK: Yes. I am going to come back
5 to you guys in just one second. I understand that
6 we had some technical difficulties. We are going
7 to come back to you in just a second.

8 UNIDENTIFIED SPEAKER: Yes.

9 CHAIRMAN CLARK: Let me finish up with the
10 Commissioners first.

11 Commissioner Brown, you are recognized.

12 COMMISSIONER BROWN: Thank you, Mr. Chairman.

13 I do have a question for staff on page 15,
14 Issue 3. This is with regard to the initial
15 customer Aquarina's water and wastewater service.

16 Again, we have three different Class B water
17 cases before us today varying in size and scope.
18 We seem to be -- we have talked over the years
19 about benchmarking, and we have not come to an
20 actual benchmark decision on certain costs. This,
21 though, struck me because we have got an item that
22 we just approved, Lighthouse, for initial customer
23 deposits, they were \$7 for same size of
24 residential, 5/8 inches by 3/4 inches. Here we
25 have got -- that had you know, over a thousand

1 customers.

2 Here we have Aquarina. We have over 320
3 customers for potable. We have got \$82 for water,
4 same size meter. And then on the next docket that
5 we are going to take up, HC Waterworks, we have
6 \$108, they have a thousand customers.

7 So it just -- I don't understand how we can
8 reconcile the variation for each utility. I mean,
9 they provide you, obviously, justification in
10 costs, and so you deem them prudent, but we are all
11 over the place here on initial customer deposits
12 here for water service meters that are the exact
13 same size, even customers that are paying -- there
14 are more customers and they are paying more. And
15 then we have customers -- more customers that we
16 just approved that are paying less. It's just
17 varied and it doesn't make sense.

18 CHAIRMAN CLARK: Thank you, Commissioner
19 Brown.

20 Any other --

21 MR. FUTRELL: Mr. Chairman --

22 CHAIRMAN CLARK: Mr. Futrell.

23 MR. FUTRELL: -- if I may respond.

24 Commissioner Brown, that's a good question --
25 good question, good point. I will let Ms. Hudson

1 provide a little more substance, but I would just
2 add that the deposits are connected to the average
3 bill. So there is -- there is a relation to the --
4 to the rates that is -- that drives that deposit
5 amount, but I will let Ms. Hudson provide more
6 information on that.

7 COMMISSIONER BROWN: And, Mr. Futrell, that is
8 by rule of course; right?

9 MR. FUTRELL: Correct.

10 COMMISSIONER BROWN: And before we turn to
11 her, Mr. Chairman, you know, during Art's, I think
12 second chairmanship, he talked about let's have
13 staff look at benchmarking for certain costs. And
14 this was an important issue and an important
15 request. And I know it's hard to probably
16 reconcile that with our rule, but we've got costs
17 all over the place here.

18 CHAIRMAN CLARK: Mr. Futrell.

19 MR. FUTRELL: You are correct. And we can
20 take a look at that, Commissioner Brown, and can --
21 and consider your good points to -- to assess these
22 various, various levels of customer deposits.

23 But if Ms. Hudson would like to respond, or
24 Ms. Harlow, they are on the phone.

25 MS. HUDSON: This is Shannon Hudson. I am

1 just going to piggyback off of what Mr. Futrell
2 said.

3 The customer deposit are only cost-based in
4 terms of the traits that are used to design them.
5 The customer deposits are utility specific because
6 of the average consumption and their rates
7 themselves. And what we try to do is try to --
8 deposits are -- their intent are to cover when a
9 utility, a customer moves out and don't pay their
10 bills. So if they are left with a bill, the
11 deposit is technically supposed to cover a bill
12 that the utility -- kind of like bad debt, to cover
13 a uncollectible bill.

14 So it's -- I guess to benchmark it, it
15 wouldn't be the same across all utilities because,
16 again, their rates are different. Their average
17 consumption is different. So it's kind of
18 different from a miscellaneous service charge when
19 you are trying to benchmark those, where customer
20 deposits are more specifically related to the rates
21 and the average usage of that particular customer
22 base.

23 COMMISSIONER BROWN: And I appreciate that.

24 Is there a way that we can look at, whether
25 it's through AWWA or through another source,

1 resource, of how other states are handling certain
2 deposits for certain classification of utilities,
3 whether it's by rule, by statute or basically by
4 individual case?

5 I would love to see what other states are
6 doing handling similarly sized utilities, because
7 here you have got a utility that has 320 potable
8 water customers, right, and they are paying \$82.
9 But then you have got a utility who has more, a
10 thousand customers that we are going to take up,
11 and they are paying \$108, and we have about one
12 just a moved who has more and they are paying less.

13 It's just -- it's so non-consistent. And I
14 get that we are basing it off of the deposits, but
15 I would curious to see what we are doing, because
16 it just seems a little bit inconsistent when we are
17 talking about similarly sized utilities.

18 CHAIRMAN CLARK: Mr. Futrell is nodding his
19 head yes, we can get the -- get some information on
20 what the utility deposits are.

21 MR. FUTRELL: Correct. We will do that,
22 Commissioner Brown, and provide some information,
23 and look at what other states are doing and the two
24 months average provision that we have that we use.

25 CHAIRMAN CLARK: Commissioner Brown, any other

1 comments?

2 COMMISSIONER BROWN: I do appreciate that, Mr.
3 Chairman. And I guess I want to kind of pursue it
4 and would like to see some development before Art
5 and my term is up.

6 CHAIRMAN CLARK: Understood.

7 All right, any other comments from
8 Commissioners?

9 Okay. We understand we may have missed a
10 couple of customers that were having some technical
11 division. I am going to go back to you and open
12 the floor now. If you would get my attention, give
13 me your name, and we will recognize you. Be sure
14 to unmute your phones and keep your phones on mute
15 until you are called on.

16 Anyone on the line?

17 MS. MELAT: Yes, Susan Melat. Can you hear
18 me?

19 CHAIRMAN CLARK: Yes. You are recognized.

20 MS. MELAT: Good. Thank you.

21 I would like tow address the quality issue.
22 With our personal experience, there was -- of
23 course they are turning the water off whenever
24 there is a storm, and they didn't notify us they
25 were turning it off. They did not notify the

1 Tidewater Condominiums, and the Tidewater
2 Condominiums continued to use their water until
3 their entire water collector on the roof went
4 almost dry. It collapsed, blew over and flooded
5 into all the condominiums up on the upper level.
6 And I am not talking just a drip. I am talking
7 several inches. So there was a pretty catastrophic
8 event just to -- just because of neglect of
9 communication.

10 Our other personal experience is that we have
11 had such low pressure that we've actually had, and
12 poor quality, we've had sand in our water. You
13 could see it in the bottom of the bathtub. You
14 could feel it. You could see it coming out of the
15 faucets.

16 We do filter our water three times. I filter
17 it through the refrigerator and through PUR, or I
18 buy water in jugs. I did not trust the water here
19 as far as my health.

20 And I thank the Commissioners for letting me
21 present our personal experience with the Aquarina
22 Utilities. We think we certainly deserve better
23 service for -- at least adequate service.

24 Thank you.

25 CHAIRMAN CLARK: Thank you very much.

1 MS. MALAKOFF: Yes, Joyce Malakoff --

2 (Multiple speakers.)

3 MS. MALAKOFF: I'm sorry. Go ahead, Sandra.

4 MS. PODESTA: No, you go, Joyce. Please.

5 MS. MALAKOFF: No, go ahead. I'm sorry, you
6 go. I know you have a presentation.

7 MS. PODESTA: I am glad you can hear me.

8 Thank you for the opportunity to speak --

9 CHAIRMAN CLARK: Would you please give us your
10 name?

11 MS. PODESTA: Sandra Podesta, 200 Osprey
12 Villas.

13 CHAIRMAN CLARK: Okay, thank you, Ms. Podesta.

14 MS. PODESTA: Can you hear me?

15 CHAIRMAN CLARK: Yes, we can hear you.

16 MS. PODESTA: My comments are very brief,
17 okay.

18 This utility company has owned and operated
19 the utility since 2011. In all of that time, they
20 have failed to establish even a minimum level of
21 trust among the great majority of our residents,
22 and certainly not among members of our board of
23 directors.

24 I personally, and many others, have traveled
25 to Tallahassee twice now, and written several

1 letters to you. And earlier, John Miller outlined
2 a request. I would like to take a different
3 approach this time in the hopes that combining
4 facts and philosophy may succeed in making an
5 impression on the Commission. Because truthfully,
6 all of our endeavors have failed, with the
7 exception of you thankfully granting us that
8 management audit a few years ago. Sadly those who
9 led that effort, led an incomplete one, and have
10 not even inspected the equipment.

11 So once again our message has not gotten
12 through. And I feel like those poor children over
13 and over you hear have been abuse, and they go to
14 their parents and they say something is wrong but
15 the parents say people in the positions of
16 authority are to be trusted.

17 So my question to you today is how many times
18 do we have to come telling you something is wrong?
19 How many letters do we write with examples, dates
20 and figures? How many five-hour trips in rented
21 buses do we have to make to Tallahassee? All of
22 which we do because you are the people in the
23 position of authority to drive the correction of
24 this wrong so that the utility is no longer
25 rewarded for mismanagement and for jeopardizing our

1 health and safety, so they have to step up to the
2 plate and correct these problems. So they must
3 deliver the service we are paying them for.

4 Something is wrong. Something is very wrong.
5 Something needs to be done, and we look to you to
6 finally believe us and to help us.

7 CHAIRMAN CLARK: Thank you, Ms. Podesta.
8 Anyone else on the line?

9 MS. MALAKOFF: Yes, Joyce Malakoff, 864
10 Aquarina Boulevard.

11 CHAIRMAN CLARK: You are recognized.

12 MS. MALAKOFF: Thank you.

13 I will be extremely brief and just dittoing
14 the remarks that have been made by Mr. Miller and
15 Ms. Podesta, with the addition of saying that the
16 quality now of our golf course, which is very
17 unimportant to many residents here, this isn't a
18 golfing community, however, it is what surrounds --
19 surrounds our homes and is open to the public, has
20 been extremely, extremely accomplished by the
21 efforts of the residents that have funded this well
22 that had to be built.

23 Our golf course was continually being
24 misirrigated. We had large, large numbers of
25 weeks, into months where did not get any service,

1 and this costs thousands of dollars to continually
2 try to maintain and repair our notifications.

3 Now that we have been able to achieve having a
4 well to finally take care of something that is an
5 asset to our community, and also a financial
6 hardship for everyone. The fees that we pay for
7 HOA continually are raised, and we have to accept
8 that for proper maintenance. But now for this
9 utility that cost us so much money and time and
10 effort in the past years when it came to irrigating
11 the golf course is now asking to be rewarded for
12 the fact that we finally had to refinance on our
13 own, which believe me was not a great popular thing
14 with many residents, something to keep our back
15 yards looking decently and having the golf course
16 be able to be played, and have somewhat of a
17 descent reputation.

18 So I find it -- I am a single family
19 homeowner, therefore, I do not get any benefits
20 from the well. It's only the golf course, so I
21 have to pay an irrigation bill every month, and now
22 I will be penalized by having an additional rate
23 hike for my lawn, which I already feel that we pay
24 more than enough money for.

25 And I ask the Commission to please consider

1 the fact that this is not some kind of hoity-toity
2 country club where we are turning our heads in the
3 other direction to the small business. We have
4 given chance and chance to this -- this utility,
5 and they have done nothing but disappoint.

6 And I thank you for your time.

7 CHAIRMAN CLARK: Thank you, Ms. Malakoff.

8 Any other customers on the line?

9 All right. If there are no other customer
10 comments, I am going to turn it back to
11 Commissioners.

12 Any follow-up from you?

13 Okay. Mr. Friedman, I will give it to you in
14 close. Any final comments from Aquarina?

15 MS. MORSE: I am sorry, Mr. Chair, I would
16 also like to --

17 CHAIRMAN CLARK: Yes.

18 MS. MORSE: -- respond to the -- to staff, and
19 I will follow Mr. Friedman if you like.

20 CHAIRMAN CLARK: Who is this? Oh, Ms. Morse.

21 MS. MORSE: Stephanie Morse.

22 CHAIRMAN CLARK: Okay. I am sorry. Yes, go
23 ahead, Stephanie, you are fine.

24 MS. MORSE: I just want to circle back to this
25 issue of whether, you know, the Commission may

1 consider other issues in a limited proceeding. And
2 according to the statute, 367.0822, Commissioner
3 Graham is absolutely correct. You have discretion
4 to consider any issue that's in your jurisdiction.
5 So you are not prohibited, and whether it's just,
6 you know, what you have done in the past or not,
7 the fact that the statute allows it.

8 And secondly, as to irrigation, and the
9 prudence issue may be from years and years ago,
10 it's not the case that once prudent, a decision
11 remains prudent for perpetuity. A utility has the
12 obligation to maintain its water system, or
13 maintain all of its system and not waste the
14 facility.

15 So I urge you to consider that issue here, in
16 that, yes, maybe 20 years ago, or whatever, it was
17 prudent to install an irrigation system. It
18 clearly degraded and was not operating, and was not
19 delivering the service that people were paying for,
20 and that's an important factor in what these
21 customers have been confronted with.

22 So, you know, I again urge you to consider
23 that. It's not the case that one prudent
24 determination from years ago can never be upset.
25 In fact, it's quite the opposite in terms of the

1 utility's obligation, and the obligation not to
2 waste facilities that customers are paying for.

3 So that's all I wanted to bring to your
4 attention. So thank you again.

5 COMMISSIONER GRAHAM: Thank you, Ms. Morse.
6 Mr. Friedman.

7 MR. FRIEDMAN: Yes. Thank you, Mr. Chairman
8 and Commissioners. Marty Friedman.

9 I would point out as to that last comment,
10 once prudent, it can't always be prudent, I
11 certainly would challenge that from a legal
12 standpoint, and as well as her statement that the
13 system had clearly degraded. There is just nothing
14 in this case that supports that assertion.

15 And in addition, the comment about you always
16 have the right to deal with quality of service.
17 Whether or not you do, the fact remains that in
18 this particular case, there is no record upon which
19 to make that determination. Usually the customers
20 would make a complaints, the staff would
21 investigate it, and you would have an in-depth
22 analysis to staff recommendation, but there is
23 no -- there is no basis for making any finding
24 about quality of service in this particular docket,
25 whether or not you have the jurisdiction to do

1 that.

2 Thank you very much.

3 CHAIRMAN CLARK: Thank you, Mr. Friedman.

4 Any other comments from Commissioners?

5 Commissioner Graham. Commissioner Graham.

6 COMMISSIONER GRAHAM: Thank you, Mr. Chairman.

7 I don't want for people to think that I am
8 just turning a deaf ear to this. The only -- the
9 only quality of service I see here, other than the
10 handful of complaints that we have, are page two, I
11 think it's, like, the third paragraph, it talks
12 about the test results provided by the utility back
13 in October 24th of 2018, indicated that they are
14 DEP secondary standards. They met the secondary
15 standard. So that's the only thing, really, that I
16 saw that's in here that deals with the quality of
17 the water, other than the testimony of the -- the
18 people that entered -- entered it into the record
19 here.

20 CHAIRMAN CLARK: Yes. Correct. Good
21 observation.

22 Commissioner Polmann.

23 COMMISSIONER POLMANN: Thank you, Mr.

24 Chairman.

25 I appreciate the customers taking the time to

1 be on the call and speak to us today. I made my
2 comment earlier, and I support comments by others
3 indicating the degree to which we -- we currently
4 have information in the record. I don't -- just to
5 reiterate, I don't believe we have enough in the
6 record in terms of complaints and investigation to
7 take action.

8 But I -- but I will simply say that I believe
9 the Commission, as a body, is increasing our -- our
10 attention on the quality of service and customer
11 concerns, and one of the customers a few minutes
12 ago indicated the position that they are not
13 receiving the service that they are paying for.
14 And my position is that that is exactly the issue
15 when we are evaluating quality of service, is that
16 they are purchasing water service.

17 And I simply want to make that statement with
18 regard to this utility in particular, is that it's
19 not just water, potable water, non-potable water,
20 so forth and so forth. The issue here is service.
21 And it's apparent just from the comments of a few
22 folks that they are not satisfied with service.
23 And that my position is that this commission is
24 paying attention, in general, that the Legislature
25 has given us additional direction to -- to take

1 into account quality of service, and that I think
2 we are broadening and deepening our view on that,
3 and we will, as we go forward, take regular steps
4 in that regard.

5 I just -- I just wanted to make that comment
6 for all who are listening. And we are going to
7 address that view with each -- each agenda item on
8 water/wastewater service as they come to us in the
9 future.

10 Thank you, Mr. Chairman.

11 CHAIRMAN CLARK: Thank you, Commissioner
12 Polmann.

13 Commissioner Brown.

14 COMMISSIONER BROWN: Mr. Chairman, I would
15 definitely concur with Commissioner Polmann and
16 also Commissioner Graham's comments. And with
17 that, I would move approval of all items on this
18 recommendation.

19 COMMISSIONER POLMANN: Second.

20 CHAIRMAN CLARK: I have a motion and a second
21 to approve staff recommendation on Item No. 6.

22 Any discussion?

23 By your vote. Commissioner Graham?

24 COMMISSIONER GRAHAM: Yes.

25 CHAIRMAN CLARK: Commissioner Polmann?

1 COMMISSIONER POLMANN: Aye.

2 CHAIRMAN CLARK: Commissioner Brown?

3 COMMISSIONER BROWN: Aye.

4 CHAIRMAN CLARK: Commissioner Fay?

5 Commissioner Fay?

6 We understand you are on the -- were you
7 there? Commissioner Fay, are you on the line? We
8 see your phone on the line but we don't see you.
9 You are muted according to staff.

10 Okay. We will proceed. The motion carries
11 unanimously.

12 All right. We are going to take a
13 three-minute break. We have a request for a break,
14 give our court reporter just a second to catch her
15 wind as well. So we are going to recess for three
16 minutes.

17 (Brief recess.)

18 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, 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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same has been transcribed under my direct supervision;
and that this transcript constitutes a true
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I FURTHER CERTIFY that I am not a relative,
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DATED this 15th day of May, 2020.



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