DOCUMENT NUMBER-DATE

1	Et optor	BEFORE THE
2	FLORIDA	PUBLIC SERVICE COMMISSION
3	In the Matter of:	DOCKET NO. 090392-WS
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5	APPLICATION FOR IN	
6	AND WASTEWATER RAT BY UTILITIES INC.	
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10	PROCEEDINGS:	AGENDA CONFERENCE ITEM NO. 21
11		TIEM NO. 21
12	COMMISSIONERS PARTICIPATING:	CHAIRMAN MATTHEW M. CARTER, II
13		COMMISSIONER LISA POLAK EDGAR COMMISSIONER NANCY ARGENZIANO
14		COMMISSIONER NATHAN A. SKOP COMMISSIONER DAVID E. KLEMENT
15	DATE:	Tuesday, December 1, 2009
16	PLACE:	Betty Easley Conference Center Room 148
17		4075 Esplanade Way
18		Tallahassee, Florida
19	REPORTED BY:	LINDA BOLES, RPR, CRR Official FPSC Reporter
20	·	(850) 413-6734
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1	PROCEEDINGS
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3	CHAIRMAN CARTER: We'll now move to Item 21.
4	And just I think did I mention, Commissioners, I
5	got, at the end that I need to make a statement for the
6	good of the order?
7	COMMISSIONER EDGAR: Mr. Chairman, just, I
8	think we still have Item 9 as well.
9	CHAIRMAN CARTER: That'll be we'll go to
.0	Item 9 after this. That's our last one.
.1	COMMISSIONER EDGAR: Okay. All right. Thank
.2	you.
.3	CHAIRMAN CARTER: Okay. Staff, you're
. 4	recognized for Item 21.
.5	MR. DEASON: Okay. Commissioners, I'm Jared
. 6	Deason with Commission staff. Item 21 is staff's
.7	recommendation to suspend Utilities Inc. of Pennbrooke's
-8	final requested rates and to approve interim rate
.9	increases of 47.74 percent for water and 49.99 percent
20	for wastewater. And staff is available, excuse me, and
21	staff is available to answer any questions the
22	Commissioners may have.
23	CHAIRMAN CARTER: Thank you.
24	Commissioners, any questions?
25	COMMISSIONER ARGENZIANO: Yes.

1 CHAIRMAN CARTER: Commissioner Argenziano. 2 COMMISSIONER ARGENZIANO: Could you tell me 3 the monetary increase on an average user's bill? 4 MR. DEASON: Monetary? COMMISSIONER ARGENZIANO: And did we have any communication from the consumers of that water utility? 6 7 MR. DEASON: Okay. Based on information 8 supplied by the utility, on the water side the average 9 consumption per customer is 8,700 gallons. And using staff's recommended interim rates, rates would go from 10 the current rate of \$20.51 to \$29.61. 11 COMMISSIONER ARGENZIANO: That's for water. 12 MR. DEASON: That's for water. Yes. 13 **COMMISSIONER ARGENZIANO:** And wastewater? 14 15 MR. DEASON: For wastewater the average 16 consumption is 4,600 gallons. The utility's current rates for that amount would equal \$27.89. On staff's --17 when you apply staff's recommended interim rates, it 18 would go to \$40.92. 19 20 COMMISSIONER ARGENZIANO: Whoo. Where's the, the other gallonage going? There's 8,700 for water on 21 the average bill and on the sewer side it's 4,600? 22 23 MR. DEASON: Yes, ma'am. COMMISSIONER ARGENZIANO: And -- wait a 24 minute. And, oh, sorry, the wastewater goes from \$27.89 25

1 to \$40? 2 MR. DEASON: \$40.92. 3 COMMISSIONER ARGENZIANO: Have we heard from 4 any of the utility consumers? 5 MR. FLETCHER: OPC and the utility are here just to address the Commissioners' questions, if you 6 7 have any. And this item is at the discretion, 8 participation is at the discretion of the Commission for an interim decision. 9 COMMISSIONER ARGENZIANO: Okay. 10 11 CHAIRMAN CARTER: If they're here and you want 12 to hear from them, we'll listen to them. COMMISSIONER ARGENZIANO: I would like to. 13 CHAIRMAN CARTER: Absolutely. You're 14 15 recognized. MR. MARCELLI: I'm Christian Marcelli 16 representing Utilities Inc. of Pennbrooke. This is a 17 very initial stage of the process and I suspect that at 18 some point we will hear from Public Counsel and the 19 customers of the, of the utility system. It's just at a 20 very initial stage and we haven't heard from anybody 21 22 yet. CHAIRMAN CARTER: Mr. Reilly is coming down. 23 We'll give him an opportunity to be heard. 24 25 MR. REILLY: We have not heard from any

1 customers yet. We saw these tremendous increases and 2 obviously are very concerned about them. I think the 3 customer meeting has not been set yet, and we will of 4 course be, our office will be in attendance at that 5 meeting and we'll, we'll be bringing those concerns to 6 you. We generally don't interject our, our views at 7 these interims, but we, we, it caught our attention just as it did you, Commissioner Argenziano. 8 9 COMMISSIONER ARGENZIANO: Uh-huh. Okav. 10 MR. REILLY: And --COMMISSIONER ARGENZIANO: I appreciate that. 11 12 I'm just really concerned with, especially a 13

I'm just really concerned with, especially a
49.99 percent increase at this time, and I want to
really understand why it's necessary and what's really
going on maybe a little more in detail, and I just
wanted to know if anybody had, you know, any other
consumers. And I guess it's just too early yet to, to
determine that, so. Okay.

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CHAIRMAN CARTER: And I think that this is subject to refund too.

COMMISSIONER ARGENZIANO: Right. Thank you.

CHAIRMAN CARTER: Thank you.

Commissioner Skop, you're recognized.

COMMISSIONER SKOP: Thank you, Mr. Chairman.

Just a brief comment. Again, I share Commissioner

Argenziano's concerns. You know, certainly this is not an inconsequential interim increase, and ironically usually the interim increase is actually more than the final rates, which even puts consumers in a more near-term harm from what we've seen.

I guess I just wanted to comment briefly before the Commission takes action, again this is certainly an increase of a high percentage and magnitude. We've seen a lot worse in some other instances, past cases. But, you know, I continue to receive calls from legislators expressing concerns from the consumers how their rates are going up and how rates are not affordable, along with quality of service issues. And I know each company has different issues. I don't want to single out Utilities Inc.

But just more of a general statement, you know, from my perspective this seems to be one of the biggest problems facing Florida in terms of utility regulation is how do you provide consumers with the basic essential element of life being water of high quality and something that's affordable? And some consumers in the State of Florida have water and wastewater rates that are higher than their electric bill, and as a 42-year-old lifelong Floridian I have trouble grasping that.

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So, again, you know, at some point either we're going to be able to get these costs and rates in line or the Legislature may need to take some action to, to provide a mechanism for municipalities, whether it be revenue bonds or something like that, to go over and, and privatize these, I mean, not privatize, but basically purchase or acquire some of these systems such that they can bring affordable quality water back to the consumers. I mean, it seems to be a growing problem, one that we've tried to struggle with. And I think that as we continue to progress it only gets worse and propagates over time. So I think that, you know, at least from the concern I've had from members of the Legislature, when I've spoken to them, I've expressed that at some point this needs to be addressed as to can we do things where we have high cost systems that the Legislature has in its power to encourage municipalities to, to integrate those and adopt them, and that way in some measures you'd be improving water quality overnight with improvements in price. So, again, I just wanted to take this opportunity to, to speak to that.

CHAIRMAN CARTER: I'm going to go to

Commissioner Klement, then I'll come -- I'm going to go
to Commissioner Klement, then I'll come back to you.

Commissioner Klement, you're recognized.

COMMISSIONER KLEMENT: Thank you, Mr. Chairman.

I would like to -- perhaps I missed it in reading the recommendations, but why are increases of this size being recommended in one fell -- or being asked for? We talked about rate shock before in a previous case. 40, 53 and 49, whatever, 53 and, 53 percent increases -- is this one of those cases where nothing had been done for 30 or 40 years to upgrade and now, now they're trying to do that?

MR. DEASON: Pursuant to Florida Statute, which is Chapter 367.082, in this, when interim rates are recommended, if the utility makes a prima facie showing, we have to do an across-the-board increase on those rates. But those rates are subject to refund. So from a statute standpoint our hands are tied. We have to allow that.

But if, for example, we pursue the rate case through its entirety and we find that rates should be lower than interim rates, then there would be a refund of those overpayment of rates during that period of time.

CHAIRMAN CARTER: The other question he asked was how long has it been since they filed a case?

MR. DEASON: The last rate case was in 2006,

1 and those rates for that rate case were approved by PSC 2 Order 070088 issued January 31st, 2007. 3 CHAIRMAN CARTER: Do you remember the percentages of the rate increases from that one? 4 5 MR. DEASON: The percentages? One second. 6 The percentages for those -- for water 7 there was actually a zero percent increase. There was 8 no increase for the water. For the wastewater there was 9 a 41.64 percent increase. CHAIRMAN CARTER: So 41 plus -- what have we 10 got now for waste? 11 MR. DEASON: 49.99 is the interim. 12 CHAIRMAN CARTER: For the wastewater? 13 MR. DEASON: For the wastewater. Yes, that is 14 15 correct. CHAIRMAN CARTER: Okay. Commissioner Klement, 16 I didn't want to budge in on your questions. Anything 17 further? 18 COMMISSIONER KLEMENT: No. 19 CHAIRMAN CARTER: Commissioner Argenziano, 20 21 you're recognized. 22 COMMISSIONER ARGENZIANO: Yes. Just for, so I 23 know, how old is the facility? MR. DEASON: How old is the facility? 24 COMMISSIONER ARGENZIANO: Uh-huh. 25

(Pause.)

CHAIRMAN CARTER: Does the gentleman from the company know the answer to that, how old the facility is?

MR. MARCELLI: I don't know the specific answer. It's my understanding --

CHAIRMAN CARTER: I beg your pardon?

MR. MARCELLI: It's my understanding it's more than ten years old, but I don't know the specific age of the system.

COMMISSIONER ARGENZIANO: Okay. Is there any, any substantial improvements being done or more people added on to the system?

MR. DEASON: As far as the rate base is concerned, comparing what the recommended interim rate bases are with the last rate case, there is a difference mainly on the water side than on the wastewater side.

For the water the recommended rate base is \$808,850, which is a \$218,204 increase over the rate base established in the last rate case.

MR. FLETCHER: Commissioner, if I may. The utility had substantial improvements on their water system. For their distribution system they had water storage, an inspection tank that was added. So there has been substantial improvements since the 2006 case,

as well as other operating costs for the water and wastewater system.

COMMISSIONER ARGENZIANO: For both systems?
MR. FLETCHER: Yes.

COMMISSIONER ARGENZIANO: Okay. Okay. Well, then that answers maybe where that's coming from. We'll look in the future to see what costs and all the things we normally would do.

And just one other thing to Commissioner Skop.

CHAIRMAN CARTER: You're recognized.

COMMISSIONER ARGENZIANO: I worked on wastewater and water issues in the Legislature for years. Good luck. Sorry. It's a very hard -- that's a very political issue.

CHAIRMAN CARTER: It is.

certain members with keen interest in that area. That's the only way to say it. And, and there have been laws -- what we've done in the State of Florida is pretty much allowed for the purchase of dilapidated systems rather than getting rid of them and giving incentives to build new ones, and then those dilapidated systems get to the point where the company needs to improve them and at what, at what cost? Now it's about to probably hit the legislators through their

constituents that, hey, I'm paying \$500 a month for, not in this case of course, and this is pretty reasonable compared to a lot of facilities that we have seen for charges, but it's getting to that point. But it's going to be a political will and that's why I say good luck.

CHAIRMAN CARTER: Commissioner Skop.

COMMISSIONER SKOP: Thank you. And thank you for raising that point, Commissioner Argenziano. I mean, not to mix issues, but again I think that the dissent you wrote back in the Aqua case hit the nail on the head, and that was my sole basis for why I was opposed to Jumper Creek, because it would have further accentuated the rate increase and subsidization levels across the board.

So, again, I know the situation we're in, and I think it has reached that inflection point where the legislators are starting to hear from their constituents. I know I'm hearing from their constituents and legislators. I get e-mails all the time about water rates and wastewater issues. But it seems to me that, again, it would take an act of God. But, you know, if you could get some mechanism for, again, incentivizing the municipalities or cities to take over some of the systems, it would be a win-win solution, but ultimately the consumer would benefit.

Because, again, when you buy out these systems, they're not going to sell them on the cheap. There's going to be a profit made there. So ultimately the private industry wins through the acquisition.

But at the end of the day what I'm more concerned about is the consumer and the ratepayer being able to have affordable water, quality water, I mean quality water at affordable rates I guess is a better way to say it. And that's getting to be a problem in some areas of our state that it's a persistent problem, and I don't see it getting any better because every time costs go up, their costs go up, and then rate increase on top of rate increase. So it's something that ultimately sooner or later you'll be forced to grapple with, so.

COMMISSIONER ARGENZIANO: Well, I -- Mr. Chair, if I can.

CHAIRMAN CARTER: Commissioner Argenziano.

commissioner argenziano: I know we want to go, but when you can't afford water, if you really can't afford to pay for water and then you have -- I mean, your home is rendered -- your life -- what do you do? That's a real problem. That's something the Legislature is faced with and they need to respond to that. And you can't fault a company who is following the rules and

going by what the state says. It's just that there needs to be something done. And unfortunately too many times the incentive is to pick up older systems -- and I'm not suggesting that this is one of those, but that's happened in a lot of places. And the out is for those systems, for, as you say, the municipalities to purchase those.

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But there has just been a long mind-set of the Legislature. Originally -- and I hate to do this. Just one second. Originally it was basically to say let's help these older facilities, you know, to, to help the communities grow better and to be able to provide clean and safe water as well as wastewater and the wastewater components. The monies that taxpayers paid, some of the federal dollars that came down to increase the systems or provide better systems were originally to take those bad systems off of where there were waterways or water use caution areas where the ground would not have a good time with, with some of those leaking bad systems and pollution wise. But it's gotten to the point where some of the municipalities have used it as money makers to increase development and, you know, it's like a Catch-22, so.

COMMISSIONER SKOP: Mr. Chair, briefly.

CHAIRMAN CARTER: Commissioner Skop.

agree wholeheartedly. I guess what it boils down to, at least from my standpoint, I've been beneficial to have municipal water all through my life, I drink it right out of the tap. But I guess by the nature of what it is, again a private company has to have a return on investment so it can attract investors, and I recognize that has different layers of expenses, taxes and such that have to be recovered through rates. Municipalities on the other hand through economies of scale having much larger systems tend to be the high quality, low cost producer. I guess it's unfortunate, but that's the way it is.

But there has to be some balancing because I think, as Commissioner Argenziano astutely pointed out in her comments, is that when you get in a situation where water and wastewater bills are approaching \$400 to \$500 per month per customer, that's unaffordable. That doesn't translate into affordable rates. And that's where under even the current statutory provisions the Legislature is going to have to step in and find a solution. Thank you.

CHAIRMAN CARTER: Thank you. And,

Commissioner Argenziano, from working with you and

following your career, the many, what we call, water

wars, you got a lot of battle scars for that.

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COMMISSIONER ARGENZIANO: But you have to see the other side.

CHAIRMAN CARTER: Yeah. But you were a champion for doing the right thing. And I think that the Legislature is going to have to come up, step up now. Is that we can't keep pushing this issue aside. They're going to have to step up and say do we want to encourage private companies to come and buy these dilapidated systems and then hit the customers with rate shock, or do we come in and we allow them to buy these dilapidated systems but put in a system that will maybe have like an installment plan to allow for the gradual increase, you know, a reasonable increase for the product but also kind of like an installment plan for the equipment and the capitals costs and things of that nature. And hopefully that will be some of the kind of things that they will look at over there.

And it's -- in addition to those problems, DEP has changed a lot of the, the health, safety and welfare rules, which also increase the cost and all. So that's going on.

Every water -- then you've got the third prong is, the third leg to the stool is the water management districts have -- most of the districts in Florida,

1	they're under water supression agreements. So they've	
2	got restrictions on there. So all of this is a	
3	confluence of factors that are not necessarily in the	
4	best interest of the consumers.	
5	COMMISSIONER ARGENZIANO: I have a great well.	
6	CHAIRMAN CARTER: Unfortunately in a lot of	
7	the communities, they won't let you put	
8	COMMISSIONER ARGENZIANO: But they may take it	
9	away.	
10	CHAIRMAN CARTER: Yeah. They won't let you	
11	dig a well, you know.	
12	COMMISSIONER ARGENZIANO: That's true.	
13	CHAIRMAN CARTER: Okay. Commissioners, Item	
14	21. Are there any further questions or concerns on it?	
15	Hearing none, the Chair is now open for a motion for	
16	disposition of Item 21.	
17	COMMISSIONER SKOP: Mr. Chair.	
18	CHAIRMAN CARTER: Commissioner Skop, you're	
19	recognized for a motion.	
20	COMMISSIONER SKOP: Thank you, Mr. Chair. I'd	
21	move to approve staff's recommendation for Issues	
22	1 through 5.	
23	CHAIRMAN CARTER: There's a motion. Is there	
24	a second?	
25	COMMISSIONER ARGENZIANO: Second.	

CHAIRMAN CARTER: Motion and a second. Any further concern, questions? Any further debate? Hearing none, all in favor, let it be known by the sign of aye. (Simultaneous vote.) All those opposed, like sign. Show it done. (Agenda Item 21 concluded.)

1	STATE OF FLORIDA)
2	: CERTIFICATE OF REPORTER COUNTY OF LEON)
3	
4	I, LINDA BOLES, RPR, CRR, Official Commission
5	Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein
6	stated.
7	<pre>IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision;</pre>
8	and that this transcript constitutes a true transcription of my notes of said proceedings.
9	I FURTHER CERTIFY that I am not a relative,
10	employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties'
11	attorneys or counsel connected with the action, nor am I financially interested in the action.
12	DATED THIS 15th day of December.
13	2009.
14	
15	LINDA BOLES, RPR, CRR
16	FPSC Official Commission Reporter (850) 413-6734
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