

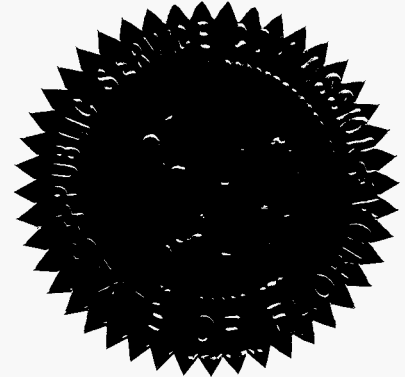
BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 100149-WU

APPLICATION FOR INCREASE IN
WATER RATES IN LEE COUNTY BY
NI FLORIDA, LLC.

_____ /



PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 8

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER EDUARDO E. BALBIS
COMMISSIONER JULIE I. BROWN

DATE: Tuesday, April 5, 2011

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

REPORTED BY: JANE FAUROT, RPR
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FLORIDA PUBLIC SERVICE COMMISSION

FPSC-COMMISSION CLERK

P R O C E E D I N G S

1
2 **CHAIRMAN GRAHAM:** That moves us on to the
3 simple one, Item No. 8.

4 **MR. DEASON:** Good morning, Commissioners.
5 I'm Jared Deason with Commission staff.

6 Item 8 concerns an application for an
7 increase in water rates by Ni Florida, LLC. Ni
8 Florida is a Class A utility located in Lee County.
9 The utility's rates were last established in 1992.

10 Today we have Barbara Oliveira, Manager of
11 Tamiami Village; Tricia Merchant and Joe McGlothlin
12 from the Office of Public Counsel; and Marty
13 Friedman, Counsel for Ni Florida, that are here to
14 address the Commission. And staff is prepared to
15 answer any questions the Commissioners may have.

16 **CHAIRMAN GRAHAM:** Thank you.

17 We'll start with the intervenors, and then
18 we'll end with Marty, and then we will bring it back
19 here to the board.

20 **MR. MCGLOTHLIN:** Good morning,
21 Commissioners.

22 I'm Joe McGlothlin with the Office of
23 Public Counsel. Our office is here to oppose the
24 87 percent increase sought by the utility, to
25 support the staff recommendation, and our position

1 is based largely on what we perceive to be a huge
2 disconnect between the reality, by which I mean the
3 nature, size of the operation, the utility
4 operation, on the one hand, and the huge increase in
5 costs that the utility is attempting to collect from
6 customers on the other.

7 And to describe that for you, we have
8 Barbara Oliveira here in her capacity as manager of
9 the residence association. And accompanying her
10 today is Kathy Beck (phonetic), who is a customer,
11 and also a member of the board of directors of the
12 association.

13 Tricia Merchant, a CPA with our office,
14 has some comments on the filing, and then I'll do a
15 quick wrap-up after that.

16 **MS. OLIVEIRA:** Good morning.

17 Tamiami Village is made up of three phases
18 totaling 718 homes. The Tamiami RV Park, which is
19 adjacent, has one meter that services 242 sites. Ni
20 Florida is a pass-through operation, and by this I
21 mean they purchase the water from Lee County, there
22 is no treatment plant required, and the water flows
23 to Tamiami where the residents are then charged.

24 Ni Florida has no on-site office. The
25 actual Ni Florida staff that services Tamiami

1 consists of Mr. Joseph Jacobs, who is on salary. A
2 golf cart is provided for transportation needs, and
3 he's a resident, okay, of Tamiami Village. He lives
4 within the park. Mr. William Spee (phonetic) is an
5 hourly employee, and he is only used when Joe needs
6 a second pair of hands. Again, they travel in a
7 golf cart; they live in Tamiami; so that is the
8 extent of the salaried positions for staff.

9 The billing and problems are handled by
10 the Florida Utility Group, which is in Hudson,
11 Florida, and is headed by Mr. John Woodson Celner
12 (phonetic). This company is contracted by Ni
13 Florida to provide this service. Boil water
14 notices, if there is a problem, are actually printed
15 in my office and prepared by my staff for Mr.
16 Jacobs. Again, it's a straight pass-through charge.
17 And originally I was asked to draft all the boil
18 water notices, but I refused because -- and I
19 required that the Florida Utility Group provide
20 this, because I needed to make sure that they were
21 on top of it, they knew exactly what to say, and
22 that they weren't actually passing that off to my
23 office 100 percent.

24 Ironically, there's even volunteers of
25 residents within Tamiami Village that actually

1 assist Joe Jacobs in passing out the boil water
2 notices when it's necessary. My staff -- because
3 there is only one meter to the RV park, and they are
4 only required to give me one boil water notice, my
5 staff is responsible for notifying the 242 residents
6 that are in the RV park during season.

7 The majority of the questions and/or
8 problems from Tamiami residents actually come to my
9 office first, which we try to handle for them, and
10 then that also necessitates us calling the Hudson
11 office. And the reason is, it's a very elderly
12 community and they don't get the service. Sometimes
13 you are talking to 70, 80-year-old ladies that just
14 don't understand what they are trying to say. So it
15 often requires my staff to step in to try to help
16 facilitate to get the problems resolved. One thing
17 I want to stress, Texas is never called, and they
18 don't call us.

19 Tamiami Village is a 55-plus community
20 with its owners, a majority of them, living on a
21 very limited income. As their representative, I am
22 here as the people are not able to afford a bus to
23 come here so that their voices can be heard. Some
24 of my residents actually require additional
25 services, such as elder services, medicine

1 assistance, food assistance, which I work with
2 through the many entities, nonprofit entities in
3 North Fort Myers.

4 Our residents are very frugal, and an
5 increase in their personal utility costs can and
6 will create a hardship for some of them.

7 Thirty percent of the 17,130 residents residing in
8 Fort Myers live below the poverty level, which is a
9 10 percent increase over 2009. In 2010, Fort Myers
10 ranked 46th in the country with the highest
11 percentage of people living below the poverty line.
12 In 2009, Fort Myers ranked 200 using the same cities
13 in the survey.

14 Fort Myers' water increase in 2010 was
15 9 percent. The City of Cape Coral increase for
16 their water was 8.15 percent. Charlotte County
17 Utilities had no increase last year in their water
18 increases.

19 Based on the fact that Ni Florida is a
20 pass-through utility with no direct staff and/or
21 customer service, such an increase in areas that do
22 not directly impact Tami Village, in my opinion, are
23 unwarranted. Please do not increase the service
24 charges and remove the astronomical salaries
25 submitted for substantiating the unbelievable

1 increase.

2 Thank you.

3 **MS. MERCHANT:** Good morning,
4 Commissioners. This is Tricia Merchant with the
5 Office of Public Counsel.

6 First, we want to thank staff for their
7 recommendation, revised recommendation in this case
8 regarding the affiliate charges. As you remember in
9 the prior Agenda Conference, they had a mismatch
10 between the allocation factors and the expenses, so
11 they came back and the company presented more
12 information for 2010. And we want to state that we
13 agree with the majority of the adjustments that
14 staff has made regarding the affiliate charges, but
15 we think that there's a couple of other areas that
16 should be considered by the Commission, and one
17 deals with just the overall level of management fees
18 that they are asking to be charged down to the
19 customers.

20 This is still, this company is still in
21 very much the acquisition mode as opposed to the
22 utility operation mode. I was looking at their
23 website earlier this morning, and the tag line on
24 Google says we design, we acquire, and we operate
25 utilities. So operating utilities is actually the

1 third thing.

2 So we think that while those expenses are
3 reasonable and prudent for them to incur if they
4 want to acquire those systems, we don't think that
5 they should be allocated down to the utilities that
6 they operate. Which gets me to their second point,
7 our second point, and that is how the company
8 supported the percentages of time that their
9 employees spent on utility versus acquisition work.
10 And they basically did an informal survey -- they
11 don't have any records to support that one
12 vice-president worked on the utility versus
13 acquisition time. And staff has adjusted those, but
14 we think there needs to be some supportive
15 documentation to show exactly what they worked on
16 during the year. So the Uniform System of Accounts
17 actually requires utilities to provide a study of
18 time when they are allocating charges for salaries
19 and other affiliate expenses, and we think that that
20 is something this company needs to do.

21 And with that, I will turn it back over to
22 Mr. McGlothlin.

23 **MR. MCGLOTHLIN:** Just a few more words
24 about the disconnect that I mentioned earlier,
25 Commissioners. On the one hand, you have a service

1 area consisting of a very compact mobile home
2 community and an RV park that has a single meter.
3 One employee who can reach the service other with a
4 golf cart. The customer service has been contracted
5 out to an entity called Florida Utility Group, and
6 within the staff recommendation you will see that
7 even such things as rate case preparation on the
8 part of an entity called Tangible has been
9 outsourced beyond the company.

10 All of that on the one hand. Now, factor
11 in the fact that of the proposed increase, the
12 original request included \$175,000 of allocated
13 overhead. A deluge of overhead coming from the
14 parent company. And you will see references to 17
15 different categories of O&M emanating from 16
16 employees, about half of whom are officers and some
17 of those are people making six figures. There is
18 something very wrong with that picture, when you
19 contrast the nature of the operation with the amount
20 of overhead that the utility seeks to impose on the
21 rate case requirements.

22 Then add to that the fact that according
23 to the staff recommendation, those allocations stem
24 from company estimates, which certainly invites a
25 great deal of scrutiny. And we give your Staff

1 credit for having looked at that with care. And we
2 are here to tell you that we support the staff
3 recommendation, but our view is that if the
4 Commission were to go anything beyond that, we would
5 probably be poised to challenge some of those
6 allocations.

7 I will reserve any additional comments
8 depending on whether the company offers anything new
9 today. Thank you.

10 **CHAIRMAN GRAHAM:** Thank you, sir.

11 Mr. Friedman.

12 **MR. FRIEDMAN:** Thank you, Mr. Chairman.

13 Commissioners, good morning. My name is Marty
14 Friedman. Our firm, Rose Sundstrom & Bentley,
15 represents Ni Florida in this proceeding.

16 And as you recall, last time we were here,
17 the Commission sent it back for the staff to
18 reevaluate the allocations because there was a
19 mismatch on the expenses and the number of
20 customers. And the company went back and did that,
21 and I've handed out a little schedule that I think
22 hopefully will explain the company's position and
23 the two errors that the staff has made in their
24 analysis and in their recommendation.

25 The first error is that what the staff has

1 done is it has done some averaging on the amount of
2 time that employees spend on acquisition versus
3 operations. And averaging is not proper in this
4 case because this utility has gone through its
5 formative years. A utility has a cycle. Obviously
6 when the utility first starts up, it has got no
7 customers and it spends a lot of time and effort in
8 acquisitions. You're going to find -- you're going
9 to go out and find companies that you are going to
10 build your business on, and the company has done
11 that.

12 When they added the South Carolina system,
13 which is the one that added a lot of customers which
14 caused this matter to be readdressed, when they
15 added South Carolina, the mode of the
16 company changed. All of a sudden now they have a
17 large customer base. Does that mean that they won't
18 ever do any more acquisitions or they are not? Of
19 course not. All companies are out there looking for
20 acquisitions. But saying that, as Ms. Merchant
21 said, they are very much in the acquisition mode,
22 you know, that is an exaggeration. They have gone
23 through that acquisition step, now they are in the
24 position where they are operating, and that's why
25 the averaging isn't appropriate.

1 If it were a mature utility that was just
2 going through its operations stages then, yes, it
3 might be appropriate. But when you have a start-up
4 utility, what you are doing is you are averaging all
5 of the top-heavy -- and I mean top-heavy from an
6 acquisition standpoint -- time, and you are
7 averaging that with what the normal operating
8 expenses of the utility are going to be, the normal
9 operations. And I don't think it's appropriate to
10 average in a situation where you have a utility
11 going through that mature portion of being a utility
12 company moving from acquisitions to operations. And
13 so we prepared this schedule.

14 There's two errors, really. The first one
15 is on the averaging. And if you will look, this
16 final column here is the amount that the staff has
17 recommended. And then if you look at the third
18 column is what -- the estimate of the company. And
19 when they say they did it -- you know, it's not
20 scientific what they did, but these are the people
21 that are doing the work. And they go and they
22 have -- they didn't just say, "Hey, Joe, how much
23 time did you spend on this?" They spent some real
24 time and effort evaluating what each employee did.
25 And so the amount of time estimated in that second

1 column is a -- I don't think it's just kind of a
2 wild estimate. I mean, it's a study. It's an
3 analysis that was done of each of those 15 or so
4 employees, what their job function was on a
5 going-forward basis. And so that's the percentage
6 of 86.89 percent versus what the staff did on their
7 averaging of 68.51 percent.

8 The second fault we find with the staff's
9 recommendation is there are three employees that are
10 devoted full-time to South Carolina. And we believe
11 that since those employees are full-time South
12 Carolina, they should be below-the-line, so to
13 speak. In other words, you don't put them up at the
14 top and then put zeros next to their name because
15 that brings down the overall average. We think it's
16 appropriate, since those employees are devoted
17 solely to South Carolina, that they should be
18 below-the-line. And you will see in both the third
19 and the fifth column, which is the third column
20 being the percentage that Ni Florida recommends and
21 the fifth column being the staff's recommendation,
22 you will see what the outcome is if we take those
23 three employees and put them below-the-line, so to
24 speak.

25 And the position of the utility is that

1 that third column represents the appropriate amount
2 that the utility is due for their corporate
3 overhead. At the very least, you should take what
4 the staff has done and take those three employees
5 and put them below-the-line. And once you do that,
6 this last column is what identifies what the
7 appropriate amount of expenses related to the
8 utility, if you take those three solely dedicated
9 employees and put them below-the-line. So we would
10 suggest to the Commission that the appropriate
11 number would be the 59,216 in the third column, but
12 at the very least, it should be the 47,322 by
13 putting those employees where they belong.

14 Thank you.

15 **CHAIRMAN GRAHAM:** Mr. Friedman, I've got a
16 quick question for you. On this chart that you
17 passed out --

18 **MR. FRIEDMAN:** Yes, sir.

19 **CHAIRMAN GRAHAM:** -- the second column, is
20 that projected amount of time that they are planning
21 on sending, or is that the actual amount of time?

22 **MR. FRIEDMAN:** That's the amount of time
23 on a going-forward basis that each of these
24 employees are expected to spend in operations.

25 **CHAIRMAN GRAHAM:** So that's projected?

1 **MR. FRIEDMAN:** Yes. It's current and
2 projected. We don't think -- what they are doing
3 right now is what they expect to be doing next year
4 and the year after.

5 **CHAIRMAN GRAHAM:** The only reason why I
6 asked the question is because back during the test
7 year we were at 47 percent, is that right?

8 **MR. FRIEDMAN:** Yes.

9 **CHAIRMAN GRAHAM:** And it was at
10 47 percent, and this seemed like a big leap from
11 then.

12 **MR. FRIEDMAN:** And that's exactly what the
13 staff said, "Boy, that's a big change." But think
14 about it. You are a new company; you're going to
15 acquire your business, and then once you acquire
16 your business what do you do? You operate it. And
17 that is exactly what they did.

18 During that test year, they acquired a
19 substantial utility in South Carolina, which makes
20 this a decent-sized utility company. And now that
21 they have got that customer base, then they are
22 moving in to taking these employees and having them
23 do the operations, which is what they are supposed
24 to do. And future acquisitions will probably be
25 done differently using outside people for due

1 diligence, because these are the people they need to
2 operate the utility. They didn't need them to
3 operate the utility when they had 20 percent of what
4 they have today, but that is the reason there is a
5 big jump. You would expect there to be a big jump.

6 **CHAIRMAN GRAHAM:** Okay. I just wanted to
7 make sure that I understood what that column was.

8 **MR. FRIEDMAN:** Thank you, Mr. Chairman.

9 **CHAIRMAN GRAHAM:** Thank you.

10 All right. We'll bring it back here to
11 the board. This is a big onion, so we might as well
12 do it one layer at a time. I guess the first
13 question I have is does anybody have any issues with
14 Issues 1 through 9? If so, then we'll start back
15 there.

16 **COMMISSIONER EDGAR:** Mr. Chairman, if I
17 may, I have some questions.

18 **CHAIRMAN GRAHAM:** Sure.

19 **COMMISSIONER EDGAR:** I forgot about the
20 button. Sorry.

21 **CHAIRMAN GRAHAM:** No, you're good.

22 **COMMISSIONER EDGAR:** I really forgot. To
23 OPC, do you have any concerns about the staff
24 recommendation on Issue 9, which is the rate case
25 expense?

1 **MS. MERCHANT:** We are not disputing Issue
2 9.

3 **COMMISSIONER EDGAR:** Thank you. Because I
4 didn't think I heard you bring it up, but often that
5 is an issue that we discuss, and so I just wanted to
6 make sure.

7 **MS. MERCHANT:** That's correct.

8 **COMMISSIONER EDGAR:** If that is the case,
9 as I understand it to be, then I do not have any
10 concerns with it.

11 **CHAIRMAN GRAHAM:** Is that a thumbs up?
12 Can I get a motion to approve staff's recommendation
13 on Issues 1 through 9?

14 **COMMISSIONER EDGAR:** So moved.

15 **COMMISSIONER BROWN:** Second.

16 **CHAIRMAN GRAHAM:** It has been moved and
17 seconded, Staff's recommendations on Issues 1
18 through 9. Any further discussion?

19 Seeing none, all in favor say aye.

20 (Vote taken.)

21 **CHAIRMAN GRAHAM:** Those opposed? By your
22 action you have approved Issues 1 through 9.

23 Commissioner Brown.

24 **COMMISSIONER BROWN:** I have a question for
25 Mr. Friedman regarding the forecast for the

1 acquisitional over the next few years. I know that
2 there is one LOI in the pipeline, and I know what is
3 involved with the due diligence required when you
4 acquire another company, and I was just wondering if
5 you were able to specify other than that one LOI in
6 the pipeline that the company projects to acquire.

7 **MR. FRIEDMAN:** I'm thinking we responded
8 to a data request that the staff had. I don't
9 remember that there are any others, other than the
10 one LOI they have outstanding that, you know, it is
11 just that, it's a letter of intent. But as I
12 mentioned, the company does its due diligence
13 prospectively a little differently than it did in
14 the past. It will use more outside consultants for
15 due diligence than they have in the past.

16 **COMMISSIONER BROWN:** What's the
17 percentage? Would you -- in changing, because it
18 obviously costs more money to outsource than to use
19 the employees within, so -- acquisition costs.

20 **MR. FRIEDMAN:** I've got no idea; I've got
21 no idea.

22 **COMMISSIONER BROWN:** And I just have a
23 follow-up question for staff regarding that. If the
24 utility company was able to clarify its potential
25 acquisitional forecast more definitively, would that

1 change staff's recommendation for the allocated
2 overhead in review of the company's job descriptions
3 over the past two years average for purposes of the
4 breakdown, the allocation breakdown.

5 **MR. FLETCHER:** Bart Fletcher, Commission
6 Staff.

7 Yes, Commissioner Brown, if we had
8 received -- it depends on what information is
9 provided and what would be in that forecast. If
10 there was a forecast of a great number of companies
11 that they had their eye on and they were actively
12 seeking that they knew about already, then that
13 might trigger staff to look at something other than
14 taking the average based on their PD description,
15 the position descriptions now between '09 and 2010,
16 and that's basically what we looked at, and their
17 general ledger activity in order to use that
18 average. But if there was a high level of
19 forecasted acquisition activity that might give us
20 some reason to revisit that. But we don't know.
21 Based on their response, they cannot forecast that.
22 It could, but in the absence of that, we have to
23 rely on the information provided.

24 **COMMISSIONER BROWN:** Just a follow-up
25 question. And maybe this is a question for someone

1 other than you, Mr. Fletcher. I just wanted to know
2 if the average would necessarily be akin to possibly
3 a study as defined under the NARUC guidelines, and I
4 don't know if that is something for you or for
5 Legal.

6 **MR. FLETCHER:** I'll give it a stab, and
7 then I'll defer to Mr. Jaeger. But the NARUC
8 Uniform System of Accounts basically state that in
9 the event of actual time spent in various activities
10 it is not available or practical, salaries should be
11 allocated upon the basis of a study. And the time
12 engaged during a representative period, the charges
13 should not be made to accounts based on estimates or
14 in an arbitrary fashion.

15 Staff believes that what we have in our
16 recommendation is in the spirit of the NARUC Uniform
17 System of Accounts instructions there, where we
18 didn't look just at -- we looked at their job
19 descriptions for each employee from 2009 and 2010.
20 We did also look at the general ledger activity and
21 seeing the multiple employees that were traveling
22 for possible acquisition.

23 We counted at least five other utilities
24 that the utility was looking at in 2010 in South
25 Carolina. They were unsuccessful, but at least they

1 were reaching out to those utilities for the
2 possible acquisitions. So that's what our reliance
3 is on, and we believe it is in the spirit of the
4 accounting instruction.

5 **MR. JAEGER:** Commissioner Brown, Ralph
6 Jaeger, Legal staff.

7 I think what staff is saying is we have
8 been consistent with the way we have done this in
9 the past, and we recognized that executives,
10 controllers, vice presidents, and presidents don't
11 punch time sheets, and they don't keep records. And
12 so what the utility did was go to their people and
13 say how much time did you spend. And so it is a
14 study, or it has been sufficient in the past that we
15 have accepted this type of analysis.

16 **COMMISSIONER BROWN:** Okay. Thank you.

17 I have another question, but I will hold
18 off and just defer to a later time here.

19 **CHAIRMAN GRAHAM:** Commissioner Balbis.

20 **COMMISSIONER BALBIS:** Thank you, Mr.
21 Chair.

22 I have a couple of questions, and
23 hopefully it doesn't push us too far off track.

24 Mr. Friedman, when was this utility
25 purchased by Ni Florida or just Ni in general?

1 **MR. FRIEDMAN:** I'll tell you the truth, I
2 don't remember. They probably know better. It has
3 probably been within the last -- maybe '95 or '96,
4 the last four or five years.

5 **CHAIRMAN GRAHAM:** I think staff has that
6 information.

7 **MR. FLETCHER:** Commissioner Balbis, are
8 you referring to this utility that is at issue here?

9 **COMMISSIONER BALBIS:** The original -- the
10 utility that is within Florida, when it was
11 purchased by Ni.

12 **MR. FLETCHER:** That was around '95 -- '97,
13 I'm sorry.

14 **MR. JAEGER:** 2007.

15 **MR. FLETCHER:** 2007. Sorry, Commissioner.

16 **COMMISSIONER BALBIS:** And, again, I know
17 in previous actions this Commission has taken, we
18 obviously have jurisdiction over reviewing and
19 approving any potential acquisitions in accordance
20 with Statute 367.071. In going through that, I
21 noticed that there isn't a lot of emphasis placed
22 upon as far as the acquiring company being able to
23 effectively or efficiently manage the utility. In
24 other words -- and I asked the question of staff in
25 a prior matter, and the answer was, well, we look at

1 the financial ability, the technical knowledge and
2 wherewithal. And then as far as the cost to do to,
3 we handle that in any subsequent rate cases, et
4 cetera, is that correct?

5 **MR. FLETCHER:** That is my understanding.
6 And what we look at it in transfers and
7 certification cases is we do look at the technical
8 expertise of the management, the financial
9 wherewithal to provide that capital investment and
10 make sure that the company is maintained properly.
11 And then as far as the next time rates are
12 established, that's where we look at the prudence
13 and the reasonableness of the expenses.

14 **COMMISSIONER BALBIS:** Okay. And I guess
15 the assumption that I would have that, you know, in
16 an acquisition when you have a larger company
17 purchasing a smaller one, there's economies of
18 scale, there's efficiencies that are gained, et
19 cetera, in that case. And here, you know, we may
20 have the opposite of that happening with the
21 additional overhead expenses, et cetera, resulting
22 in additional costs to operate it. So some might
23 expect it to be more efficiently operated and more
24 cost-effective, again, with the economies of scale.
25 I guess I just wanted to point out that through the

1 approval process of the acquisition, it is really a
2 different focus. And now we are in the case where
3 we are looking at, you know, the prudence and the
4 cost to do so.

5 And I have a couple more questions, I
6 think, when we get into Issue 11. I'd like to hold
7 off till that.

8 **CHAIRMAN GRAHAM:** All right. We are on
9 Issue 10. Are there any questions, concerns,
10 adjustments?

11 Commissioner Edgar.

12 **COMMISSIONER EDGAR:** Thank you, Mr.
13 Chairman. Hearing no questions from my colleagues,
14 I would move the staff recommendation on Issue 10.

15 **COMMISSIONER BROWN:** Second.

16 **CHAIRMAN GRAHAM:** It has been moved and
17 seconded, staff recommendation on Issue 10. Any
18 further discussion on Issue 10? Seeing none, all in
19 favor say aye.

20 (Vote taken.)

21 **CHAIRMAN GRAHAM:** Those opposed? By your
22 action you have approved Issue 10.

23 That moves us to Issue 11.

24 Commissioner Balbis.

25 **COMMISSIONER BALBIS:** Thank you, Mr.

1 Chair.

2 In staff's recommendation there's a
3 comment made as to the equity sponsor fee of
4 \$315,000. And maybe this question is to Mr.
5 Friedman, but, you know, I understand the concept of
6 having an equity sponsor, but what is the total
7 amount of equity that's available to the company?

8 **MR. FRIEDMAN:** I couldn't tell you that
9 off the top of my head.

10 **MR. FLETCHER:** Commissioner Balbis, if I
11 may, according to a data request, they can draw up
12 to \$100,000,000 on that equity fund. Presently they
13 have drawn about 31 million of that.

14 **COMMISSIONER BALBIS:** Okay. And those
15 funds are typically used for acquisitions, et
16 cetera, correct?

17 **MR. FLETCHER:** Correct, Commissioner, and
18 the infrastructure improvements to the systems they
19 acquire.

20 **COMMISSIONER BALBIS:** That's all I have
21 for right now.

22 **CHAIRMAN GRAHAM:** Okay. Any other
23 Commissioners? Does anybody have a motion?

24 **COMMISSIONER EDGAR:** Mr. Chairman, I would
25 move the staff recommendation on Issue 11.

1 **COMMISSIONER BRISÉ:** I'll second that, Mr.
2 Chairman.

3 **CHAIRMAN GRAHAM:** It has been moved and
4 seconded, staff recommendation on Issue No. 11. Any
5 further discussion on Issue No. 11?

6 Seeing none, all in favor say aye.

7 (Vote taken.)

8 **CHAIRMAN GRAHAM:** Those opposed?

9 By your action you have approved Issue No.
10 11.

11 That moves us to Issue No. 12. That's not
12 a big issue.

13 Any questions on Issue No. 12?

14 **COMMISSIONER EDGAR:** Mr. Chairman, I move
15 staff recommendation on Issue 12.

16 **COMMISSIONER BROWN:** Second.

17 **CHAIRMAN GRAHAM:** It has been moved and
18 seconded, staff recommendation on Issue 12. Any
19 further discussion?

20 All in favor say aye.

21 (Vote taken.)

22 **CHAIRMAN GRAHAM:** Those opposed?

23 By your action you have approved Issue No.
24 12.

25 That moves us to Issue No. 13.

1 Yes, sir. Mr. Fletcher.

2 **MR. FLETCHER:** Commissioner, if I may,
3 Issue 13 is just a fall-out issue of what the
4 Commission has already approved previously, if I may
5 add that.

6 **CHAIRMAN GRAHAM:** Okay.

7 **COMMISSIONER EDGAR:** Seeing no questions,
8 Mr. Chairman, I would move the staff recommendation
9 on Issue 12, recognizing that it is also a fallout
10 from our recent decisions.

11 **COMMISSIONER BROWN:** Second.

12 **COMMISSIONER BRISÉ:** 13.

13 **CHAIRMAN GRAHAM:** 13.

14 **COMMISSIONER EDGAR:** Excuse me. I'm
15 sorry, I apologize. Thank you, Commissioner. Make
16 that Issue 13.

17 **CHAIRMAN GRAHAM:** It has been moved and
18 seconded, staff recommendation on Issue 13. Any
19 further discussion? Seeing none, all in favor say
20 aye.

21 (Vote taken.)

22 **CHAIRMAN GRAHAM:** Those opposed? By your
23 action you have approved Issue 13.

24 We are on Issue No. 14. If anybody,
25 intervenors or utility want to chime in as we go

1 through this, if you would wave your hand.

2 Issue No. 14.

3 **COMMISSIONER BROWN:** Mr. Chairman, I have
4 a question.

5 **CHAIRMAN GRAHAM:** Yes.

6 **COMMISSIONER BROWN:** And this is directed
7 to staff. In our briefings you indicated that
8 roughly 97 percent of the customers' bills use
9 between zero and 6,000 gallons of water. What
10 exactly would that rate impact be under the staff's
11 recommendation in terms of numbers? And, I'm sorry,
12 if you want to add them up, feel free to.

13 **MS. THOMPSON:** Good morning,
14 Commissioners. I'm Kaley Thompson with staff.

15 Are you looking for a percentage of rate
16 increase for those customers, or what?

17 **COMMISSIONER BROWN:** Dollars.

18 **MS. THOMPSON:** Okay. Right now the
19 current average bill is 1.9 kgals. And the bills
20 would be going about \$20 to about 22.69, so about a
21 12 percent increase for those.

22 **COMMISSIONER BROWN:** And, I guess, what is
23 the average consumption of the users in that area?

24 **MS. THOMPSON:** It is the 1.9 kgals.

25 **COMMISSIONER BROWN:** 1.9, okay. And that

1 increase would be what?

2 **MS. THOMPSON:** About 12 percent for those
3 bills.

4 **COMMISSIONER BROWN:** Okay. Thank you.

5 **CHAIRMAN GRAHAM:** Any further discussion?
6 We are on Issue 14. Seeing none, can I get a
7 motion?

8 **COMMISSIONER BALBIS:** Mr. Chair, I move
9 approval of Issue No. 14.

10 **CHAIRMAN GRAHAM:** Is that staff
11 recommendation?

12 **COMMISSIONER BALBIS:** Yes.

13 **CHAIRMAN GRAHAM:** Move and seconded, staff
14 recommendation on Issue 14.

15 Any further discussion? Seeing none, all
16 in favor say aye.

17 (Vote taken.)

18 **CHAIRMAN GRAHAM:** Those opposed?

19 By your action you have approved Issue No.
20 14.

21 That moves us to Page 28, Issue No. 15.

22 Commissioner Brisé.

23 **COMMISSIONER BRISÉ:** Thank you, Mr.

24 Chairman.

25 I would move staff recommendation on Item

1 15.

2 **COMMISSIONER BROWN:** Second.

3 **CHAIRMAN GRAHAM:** It has been moved and
4 seconded, staff recommendation on Item No. 15. Any
5 discussion? Seeing none, all in favor say aye.

6 (Vote taken.)

7 **CHAIRMAN GRAHAM:** Any opposed?

8 By your action you have approved staff
9 recommendation on Item No. 15.

10 That moves us to Item No. 16, Page 30.

11 **COMMISSIONER EDGAR:** Mr. Chairman, I
12 believe this is basically a fallout issue, as well,
13 and so I would move the staff recommendation on
14 Issue 16.

15 **COMMISSIONER BROWN:** Second.

16 **CHAIRMAN GRAHAM:** It has been moved and
17 seconded, staff recommendation on Issue No. 16.
18 Any discussion? Seeing none, all in favor
19 say aye.

20 (Vote taken.)

21 **CHAIRMAN GRAHAM:** Those opposed?

22 By your action you have approved staff on
23 Item No. 16.

24 That moves us to Item No. 17.

25 **COMMISSIONER BROWN:** Seeing no questions,

1 Mr. Chairman, I'd like to move staff's
2 recommendation on Item 17.

3 **CHAIRMAN GRAHAM:** It has been moved and
4 seconded, staff recommendation on Item No. 17. Any
5 further discussion?

6 Seeing none, all in favor say aye.

7 (Vote taken.)

8 **CHAIRMAN GRAHAM:** Those opposed?

9 By your action you have approved Item No.
10 17.

11 That moves us to Page 34, Item No. 18. I
12 had a lengthy discussion with staff on this one. I
13 thought it was a little interesting, but that has
14 nothing to do with this case. There was another
15 case that we were doing a late fee, and I noticed
16 there was a different amount, so it kind of got my
17 attention.

18 Anyway, we are on Item No. 18. I don't
19 see any lights, so is there a motion?

20 **COMMISSIONER EDGAR:** Move staff.

21 **CHAIRMAN GRAHAM:** It has been moved and
22 seconded, staff recommendation on Item No. 18. Any
23 further discussion? Seeing none, all in favor say
24 aye.

25 (Vote taken.)

1 **CHAIRMAN GRAHAM:** Those opposed?
2 By your action you have approved Item No.
3 18.

4 That moves us on down to Item No. 19.
5 Ms. Merchant, were you scratching your
6 nose, or were you waving at me?

7 **MS. MERCHANT:** No. Anything is
8 unintentional there. (Laughter.)

9 **CHAIRMAN GRAHAM:** Okay. We are on
10 Item No. 19, top of Page 35.

11 **COMMISSIONER BROWN:** Mr. Chairman, I would
12 move staff recommendation on Issue 19.

13 **COMMISSIONER EDGAR:** Second.

14 **CHAIRMAN GRAHAM:** It has been moved and
15 seconded, staff recommendation on Issue No. 19. Any
16 discussion; questions?

17 Seeing none, all in favor say aye.

18 (Vote taken.)

19 **CHAIRMAN GRAHAM:** Those opposed? By your
20 action you have approved Issue No. 19.

21 We are now under other issues, which is
22 20, 21, 22, and 23. Any questions on those issues?

23 **COMMISSIONER EDGAR:** Mr. Chairman, I would
24 just point out the obvious --

25 **CHAIRMAN GRAHAM:** Sure.

1 **COMMISSIONER EDGAR:** -- which is that on
2 Issue 20, the staff recommendation is to refund a
3 portion of the interim rates that had been
4 previously been approved per the statute, and I am
5 in support of that. And if there are no questions,
6 I would move staff on the remainder of the issues,
7 20 through 23.

8 **COMMISSIONER BROWN:** Second.

9 **CHAIRMAN GRAHAM:** Any further discussion
10 on Issues 20, 21, 22, and 23?

11 Seeing none, all in favor say aye.

12 (Vote taken.)

13 **CHAIRMAN GRAHAM:** Any opposed?

14 By your action you have approved staff
15 recommendations on the remaining issues, which are
16 20, 21, 22, and 23.

17 I believe that concludes that one. Is
18 there anything else to come before us?

19 Staff, I do want to thank you for taking
20 this back in January and working on it again. Back
21 at the time, it seemed like there were some more
22 questions that were on the table, and I do
23 appreciate you guys putting forth the effort and
24 come back with, I think, a more complete program.

25 And with that all being said, I think

1 we're adjourned. Thanks.

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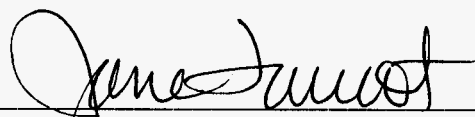
STATE OF FLORIDA)
:
CERTIFICATE OF REPORTER
COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said 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 7th day of April, 2011.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
(850) 413-6732

**Ni America Operating, LLC
Salaries
For 2010**

**Parties/Staff Handout
Internal Affairs Agenda
on 4/15/11
Item No. 8**

100149-611

After Taking Out Direct Salaries

<u>Employee</u>	<u>Total</u>	<u>Actual Estimated Percent to Utilities</u>	<u>Estimated Amount to Utilities</u>	<u>Staff-Reduced Percent to Utilities</u>	<u>Staff amount Amount to Utilities</u>
Benny Wilkinson	103,000.08	90.00%	92,700.07	70.00%	72,100.06
Lauren A. Burgess	31,224.31	75.00%	23,418.23	50.00%	15,612.16
Carey Thomas	103,000.08	100.00%	103,000.08	100.00%	103,000.08
Cory Pendleton	56,458.30	100.00%	56,458.30	62.50%	35,286.44
Craig Sherwood	10,585.00	100.00%	10,585.00	75.00%	7,938.75
Edward Wallace	190,035.12	90.00%	171,031.61	70.00%	133,024.58
Fred Melcher	37,956.74	100.00%	37,956.74	100.00%	37,956.74
Mark Daday	45,480.88	100.00%	45,480.88	90.00%	40,932.79
Mark Myers	100,000.08	25.00%	25,000.02	25.00%	25,000.02
Mike Ashfield	137,247.36	100.00%	137,247.36	62.50%	85,779.60
Jamie Stewart	8,749.98	100.00%	8,749.98	100.00%	8,749.98
Nathan Johnson	79,181.28	75.00%	59,385.96	75.00%	59,385.96
Andy Thomas	103,000.08	100.00%	103,000.08	62.50%	64,375.05
TOTAL	1,005,919.29	86.89%	874,014.31	68.51%	689,142.20

Total Allocated Overhead per General ledger:	\$ 2,866,039	\$ 2,866,039
Removal of Equity Sponser Fee	(315,000)	(315,000)
Removal of Due Diligence Expenses	(379,169)	(379,169)
Utility Excluded Overhead	(39,357)	(39,357)
Staff Excluded Overhead	(141,785)	(141,785)
Removal of Direct Payroll:		
Controller (D. Tuttle)	(56,052)	(56,052)
Manager (D. Jones)	(25,000)	(25,000)
President (S. Jones)	(174,583)	(174,583)
Allocated Overhead after Exclusions	<u>\$ 1,735,093</u>	<u>\$ 1,735,093</u>
Adjusted Percent Allocated	86.89%	68.51%
	<u>\$ 1,507,572</u>	<u>\$ 1,188,690</u>
Percent allocated to the Utility	3.73%	3.73%
Total Corporate Overhead	<u>\$ 56,232</u>	<u>\$ 44,338</u>
Specific expenses related to the Utility	2,984	2,984
	<u>\$ 59,216</u>	<u>\$ 47,322</u>