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November 21, 2025

VIA: ELECTRONIC FILING

Adam Teitzman
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Docket No. 20250000-OT- Summary of the OPC's Review of 2024 Annual Reports for Possible Water and Wastewater Overearnings.

Dear Mr. Teitzman:

The intent of this letter is to advise the Commission staff of the Office of Public Counsel's (OPC) summary of its review of possible water and wastewater overearnings for the reporting year 2024.

Based on a review of 2024 Annual Reports for water and wastewater utilities on the FPSC's website, 15 utilities reported possible overearnings but the level of possible overearnings for 11 utilities were immaterial. However, there are material possible overearnings reported for Kirby D. Morgan, Inc., Lake Yale Utilities, LLC for wastewater, and Leighton Estates Utilities, LLC, and Ni Florida, Inc. for water.

Kirby D. Morgan, Inc. (Kirby)

Kirby was organized on May 1, 1995, and provides wastewater service to approximately 219 residential customers, in single family homes, located in Eastside Village. Water service is provided by the city of Lake City. The following table reflects the possible overearnings since 2021.

Description	Wastewater NOI	Wastewater Rate Base	Wastewater Achieved ORR	ORR Using Max ROE	Possible OE	OE % of Revenues
SU973-24-AR	$15,928	$59,237	26.89%	9.51%	($10,295)	9.05%
2023 AR Not Received						
2022AR -Columbia County	51,394	22,152	232.01%	8.84%	(49,436)	44.86%
2021AR -Columbia County	43,209	23,096	187.09%	8.85%	(41,165)	37.72%
Total	$110,531	$104,485	105.79%	9.07%	($100,895)	30.30%

The OPC's overall required rate returns of 9.51% for 2024, 8.84% for 2022, and 8.85% for 2021were derived using the Commission's respective leverage formulas for those years. The following is a timeline of events associated with Kirby's possible overearnings.

Timeline of Events	
Date	**Description**
5/16/2024	Columbia County voted to transfer the regulation of all private utilities in the County to the FPSC by and through Resolution No. 2024R-13.
6/5/2024	Email from Fletcher with the OPC to Vogel with the FPSC: 1) forwarding Kirby's 2021 and 2022 Annual Reports filed with Columbia County; 2) informing the Utility's achieved overall returns were 232% for 2022 and 187% for 2021; 3) inquiring if the Commission Staff would Kirby to provide its 2023 Annual Report.
6/18/2024	Email from Fletcher to Vogel following up whether the Commission Staff would be requesting Kirby to provide its 2023 Annual Report, and, if so, requesting that the PDF file of the annual report be emailed to the OPC once it is received.
6/18/2024	Email from Vogel to Fletcher stating that the Commission Staff will be asking for the 2023 annual report and will forward the response the OPC.
6/25/2024	Email from Fletcher to Vogel stating following: "When the 2023 Annual Report was requested, was there a deadline given for Kirby D. Morgan, Inc. to provide said report? If so, what is the deadline? If not, has Kirby D. Morgan, Inc. given you an anticipated date on when their 2023 Annual Report will be provided to the Commission? Given the 2021and 2022 reported achieved returns, I am interested in what the reported 2023 achieved return is for possible overearnings purposes."
6/28/2024	Email from Fletcher to Vogel stating following: "I'm just following up on my email on Tuesday below."
7/1/2024	By Order No. PSC-2024-022-FOF-WS, the FPSC acknowledged Columbia County's Resolution No. 2024R-13 to transfer the regulation of all private utilities in the County to the FPSC.

4/8/2025	By Order No. 2025-0121-FOF-SU, the FPSC granted Kirby's grandfather certificate.
4/18/2025	Kirby filed its 2024 Annual Report with the FPSC.

According to a comparison of the 2022 year-end plant and accumulated depreciation balances from the 2022 Annual Report and the 2023 prior year's plant and accumulated depreciation balances from the 2024 Annual Report, Kirby kept its plant balance constant at $201,743 but reduced its accumulated depreciation by $37,451 from 2022 to 2023. Kirby reclassified several amounts to other plant accounts. The following tables reflect the differences in plant and accumulated depreciation balances between 2022 and 2024, which reflects a delta in accumulated depreciation of $32,938.

Plant	2022	2024	Delta
Account No. 353	$10,000	$10,000	$0
Account No. 354	36,759	16,759	(20,000)
Account No. 355	31,702	26,042	(5,660)
Account No. 360	0	20,000	20,000
Account No. 361	1,516	49,671	48,155
Account No. 363	0	1,516	1,516
Account No. 364	3,690	3,690	0
Account No. 371	0	23,434	23,434
Account No. 380	117,576	50,131	(67,445)
Account No. 395	500	500	0
Total	$201,743	$201,743	$0

Accumulated Depreciation	2022	2024	Delta
Account No. 354	$31,298	$15,771	($15,527)
Account No. 355	31,702	24,946	(6,756)
Account No. 360		20,000	20,000
Account No. 361	1,517	34,149	32,632
Account No. 363		975	975
Account No. 364	3,690	3,690	0
Account No. 371		15,005	15,005
Account No. 380	117,409	38,142	(79,267)
Account No. 395	500	500	0
	186,116	153,178	(32,938)

Lake Yale Utilities, LLC for Wastewater

Lake Yale Utilities, LLC (Lake Yale) is a Class C utility providing water and wastewater services to approximately 298 residential customers and one general service customer in Lake County. The Utility also provides irrigation service to 88 of its residential customers. Lake Yale was granted a price index increase of $2,516 for water and $2,421 for wastewater effective June 1, 2024.

According to its 2024 Annual Report, Lake Yale reported an achieved overall return of 6.20% for water and 100.63% for wastewater. On a total company basis, the reported achieved overall return is 31.25% equating to $29,265 of possible overearnings which represent 12.93% of operating revenues. The OPC's 2024 overall required rate return of 6.17% was derived by: 1) a calculated weighted average cost of long-term debt of 6.39%; 2) zeroing out the negative common equity amount of $116,629 consistent with Commission practice, and 3) a 2% cost rate for customer deposits pursuant to Rule 25-30.311, Florida Administrative Code (F.A.C).

Leighton Estates Utilities, LLC

Leighton Estates Utilities, LLC. (Leighton) is a Class C utility which is currently providing water-only service to approximately 80 customers in Marion County. Wastewater service is provided by individually-owned septic tanks. The following table reflects the possible overearnings since 2023.

Description	Water NOI	Water Rate Base	Water Achieved ORR	ORR Using Max ROE	Possible OE	OE % of Revenues
WU991-24-AR	$24,584	$235,507	10.44%	6.91%	($8,320)	10.66%
WU991-23-AR	24,374	250,030	9.75%	6.73%	(7,553)	10.03%
Total	$48,958	$485,537	10.08%	6.82%	($15,873)	10.35%

The OPC's 2024 overall required rate return of 6.91% was derived by: 1) a calculated weighted average cost of long-term debt of 5.51%; 2) the Commission's leverage formula, and 3) a 2% cost rate for customer deposits pursuant to Rule 25-30.311, F.A.C.

Ni Florida, Inc. for Water

Ni Florida, LLC (Ni Florida) is a Class A utility serving approximately 744 water connections in Lee County and 2,583 wastewater connections in Pasco County. The following table reflects the possible overearnings in 2024 (SU915-24-AR).

Water NOI	Water Rate Base	Water Achieved ORR	ORR Using Max ROE	Water Possible OE	OE % of Revenues
$63,388	$236,960	6.17%	9.76%	($40,261)	14.45%

The OPC set the utility's **negative** working capital allowance of $303,463 to zero consistent with the Commission's practice to derive the $236,960 water rate base above. The OPC's 2024 overall required rate return of 9.76% was derived by: 1) 10.22% which is the maximum authorized ROE; 2) a 2% cost rate for customer deposits pursuant to Rule 25-30.311, F.A.C., and 3) a zero-cost rate for deferred income taxes.

<u>Provision 13.02 of the Commission's Administrative Procedure Manual (APM)</u>

Subsection A. of Provision 13.02 of the Commission's APM states, in pertinent part, the following:

> If an overearnings situation is identified and the utility does not agree to initiate rate reduction proceedings, there are two methods, each having different limitations, by which the Commission may redress excessive utility earnings. As described in this procedure, the first method is to set interim revenues subject to refund, followed by an investigation, a possible rate reduction and/or a refund. A second method is appropriate if the utility may have overearned and has recently implemented a rate increase pursuant to an index or pass-through.

Subsection C. of Provision 13.02 of the Commission's APM states, in pertinent part, the following:

> C. MONITORING THE EARNINGS OF PUBLIC UTILITIES
>
> 1. Conduct a Review of the Utilities Annual Report
>
> Surveillance monitoring of earnings is accomplished primarily through review of annual reports which are due on March 31 of each year. If additional financial data is needed, a utility may be required to file additional data pursuant to §367.121(1)(c), F.S. and Rule 25-30.110, F.A.C.
>
> 2. Detecting Potential Overearnings
>
> A potential for overearnings exists when the reported return on equity exceeds the last authorized range for the return on equity. Secondly, in cases involving rate

adjustments, potential overearnings occur when the last authorized range for the overall return is exceeded. If potential overearnings are occurring, the following steps should be taken:

a. Determine if the financial information filed is complete. For example, if smaller utilities fail to include a provision for management salaries or office rent, staff should adjust the reported rate of return accordingly before testing for overearnings.

b. Test for errors in the calculation of reported income. Frequently, utilities will fail to recognize amortization of CIAC when calculating depreciation expense or will calculate income taxes incorrectly. Also, be wary of failure to disclose significant amounts of nonused and useful plant.

c. Determine if a rate adjustment was implemented in the annual report year or in the preceding year.

d. Notify your supervisor of the overearnings situation once the report has been reviewed and the rate adjustment history of the utility is known. The supervisor will be responsible for assigning further work on the overearnings case.

3. Reporting the Results of the Annual Report Review

a. By July of each year following the review of the annual reports, the Division of Accounting and Finance will prepare a "possible overearnings" report which is sent to the Executive Director listing:

(1) All utilities which have not filed an annual report;

(2) All undocketed overearnings cases and a comment describing the progress of each case.

b. Monthly updates will be provided to the EXE and DET until all cases are docketed or resolved. The EXE and DET will forward the water and wastewater "possible overearnings" report to the Commissioners.

4. Initiating a Financial Audit

Whenever a utility's annual report indicates excessive earnings, the Division of Accounting and Finance must decide whether the case should be handled as an overearnings investigative docket, an overearnings due to indexing or both.

a. If the case involves overearnings caused by a rate adjustment (pass through or index) implemented in the annual report year or previous year, a Commission finding must be made within 15 months from the filing date of the annual report to order refunds and rate reductions in accordance with §367.081(4)(d), Florida Statutes. Any division plan for rate adjustment refunds must address this deadline.

b. Where excess earnings are expected to continue into the future, a formal proceeding is initiated as described by this procedure.

c. When the Division of Accounting and Finance initiates an overearnings case, an audit of the utility will be conducted, whenever practicable, and accompanying legal, engineering and rate support will be planned to argument the investigation.

Conclusion

Based on a search of Docket No. 20250000-OT and a docket search for each of these four utilities, the OPC did not find where the Commission Staff requested and/or received any attachment of revenues for 2024 possible overearnings. Based on the above, the OPC respectfully requests whether the Commission Staff has informally secured any attachment of revenues from these utilities, as well as the status of any disposition of any informal earnings review of possible overearnings for them, pursuant to all applicable sections in provision 13.02 of the Commission's APM.

Respectfully submitted,

/s/ Bart Fletcher

Bart Fletcher
Legislative Analyst