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November 7, 2017

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November 7, 2017

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Item 1

Agenda for
Commission Conference
November 7, 2017

ITEM NO.

CASE

1

Election of Commission Chairman for a two-year term beginning January 2, 2018.

Item 2

State of Florida



FILED 10/26/2017
DOCUMENT NO. 09205-2017
FPSC - COMMISSION CLERK

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (S. Cuello)
Office of Industry Development and Market Analysis (S. Deas, C. Beard)

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 11/7/2017 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Application for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
20170202-TX	Magna5 LLC	8913

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entity listed above for payment by January 30.

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (L. Smith, D. Buys, Cicchetti)
Office of the General Counsel (Taylor) *JS* *DRB* *MZ* *CRAB* *ALM* *WDT* *JSC*

RE: Docket No. 20170208-EI – Application for authority to receive common equity contributions and to issue and sell securities during 12 months ending December 31, 2018, by Gulf Power Company.

AGENDA: 11/07/17 – Consent Agenda – Final Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Please place the following securities application on the consent agenda for approval.

Docket No. 20170208-EI – Application for authority to receive common equity contributions and to issue and sell securities during 12 months ending December 31, 2018, by Gulf Power Company.

Gulf Power Company (Gulf Power or Company) seeks authority to receive equity funds from and/or issue common equity securities to its parent company, Southern Company (Southern); issue and sell long-term debt and equity securities; and issue and sell short-term debt securities during 2018. The amount of common equity contributions received from and issued to Southern, the amount of other equity securities issued, and the maximum principal amount of long-term debt securities issued will total not more than \$600 million. The maximum principal amount of short-term debt at any one time will total not more than \$500 million.

In connection with this application, Gulf Power confirms that the capital raised pursuant to this application will be used in connection with the regulated electric operations of Gulf Power and not the unregulated activities of the Company or its affiliates.

Staff has reviewed Gulf Power's projected capital expenditures. The amount requested by the Company (\$1.1 billion) exceeds its expected capital expenditures (\$212,872,000). The additional amount requested exceeding the projected capital expenditures allows for financial flexibility with regards to unexpected events such as hurricanes, financial market disruptions and other unforeseen circumstances. Staff believes the requested amounts are appropriate. Staff recommends Gulf Power's petition to issue securities during 12 months ending December 31, 2018 be approved.

For monitoring purposes, this docket should remain open until April 30, 2019, to allow the Company time to file the required Consummation Report.

Item 3

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (DuVal, Cuello) *MS SAC*
Division of Accounting and Finance (Mouring, Smith) *ALM*
Office of Consumer Assistance and Outreach (Hicks) *JOH*
Division of Economics (McCoy, McNulty) *WBM*

RE: Docket No. 20170200-WU – Initiation of show cause proceedings against Kincaid Hills Water Company, in Alachua County, for noncompliance with Sections 350.113, 350.117, 367.121, and 367.145, Florida Statutes, and Rules 25-30.110, 25-30.120, 25-30.355, and 25-22.032, Florida Administrative Code.

AGENDA: 11/07/17 – Regular Agenda – Show Cause – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Commission staff opened the instant docket to initiate show cause proceedings against Kincaid Hills Water Company (Kincaid or Utility) for apparent violations of Florida Statutes (F.S.) and Commission rules for: (1) its failure to remit payment of its annual Regulatory Assessment Fees (RAFs) for the years 2008, 2009, 2012, 2013, and 2016; (2) its failure to submit its Annual Reports for the years 2009, 2010, 2011, 2012, and 2013; and (3) its failure to respond to customer complaints and to provide a written response to Commission staff regarding customer complaints.

Kincaid is a Class C water utility providing service in Alachua County. Kincaid became subject to Commission jurisdiction and was granted a grandfather water certificate in 1993.¹ The following information provides a historical overview of the Commission's activities related to Kincaid.

After failing to submit its Annual Reports for 1994 through 1996, an enforcement proceeding was initiated against Kincaid for violations of Rule 30.110, Florida Administrative Code (F.A.C.) (1997 Proceeding), and Kincaid was ordered to show cause why it should not be penalized \$2,628 for failing to submit its Annual Reports.² Kincaid failed to respond to the Commission's Order, resulting in the Annual Report penalties being assessed by the Commission.³ After several failed attempts by Commission staff to contact Kincaid to collect the Annual Report penalty, the Commission submitted the penalty to the Florida Department of Financial Services (DFS) to be written-off as uncollectible.⁴

In 2004, after failing to submit RAFs for the years 1995 through 2003 and failing to submit Annual Reports for the years 1998 through 2003, the Commission initiated an enforcement proceeding against Kincaid for violations of Section 350.113, F.S., and Rules 25-30.110 and 25-30.120, F.A.C. (2004 Proceeding).⁵ In an effort to work with Kincaid to resolve its non-compliance issues and because Kincaid made an effort to cooperate with Commission staff and submitted all of the delinquent Annual Reports for 1998-2003, the Commission declined to order Kincaid to show cause or assess fines against Kincaid for failing to submit RAFs and Annual Reports.⁶ Instead, the Commission approved a payment plan submitted by Kincaid to pay the RAFs, plus statutory penalty and interest, that it owed for the years 1995 to 2003.⁷ In addition, Kincaid was put on notice that failure to timely submit RAFs and Annual Reports in the future or comply with any Commission orders would result in further enforcement action by the Commission.

Kincaid again failed to submit RAFs and Annual Reports the year after the 2004 Proceeding, as well as the following two years. Kincaid made several payments toward the RAF amounts owed pursuant to the payment plan approved by Order No. PSC-04-0615-FOF-WU between June 2004

¹Order No. PSC-93-1027-FOF-WU, issued July 13, 1993, in Docket No. 921195-WU, *In re: Application for certificate to provide water service in Alachua County under grandfather rights by Kincaid Hills Water Company.*

² Order No. PSC-98-0737-SC-WU, issued on May 28, 1998, in Docket No. 971623-WU, *In Re: Initiation of show cause proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports.*

³ See, Docket No. 971623-WU.

⁴ See, Document No. 10810-98, in Docket No. 971623-WU.

⁵ Docket No. 040248-WU, *In re: Initiation of show cause proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities.*

⁶ Order No. PSC-04-0615-FOF-WU, issued June 21, 2004, in Docket No. 040248-WU, *In re: Initiation of show cause proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities.*

⁷ The Commission found the total amount of delinquent RAFs, penalty and interest, owed by Kincaid for years 1995-2003, to be \$29,231.42. See Order No. PSC-04-0615-FOF-WU.

and January 2006, then ceased submitting payments.⁸ After failing to submit RAFs and Annual Reports for 2004, 2005, and 2006, failing to submit payments pursuant to the approved payment plan, and failing to respond to staff's attempts to collect the amounts owed, the Commission initiated another enforcement proceeding against Kincaid in 2007 for violations of Section 350.113, F.S., and Rules 25-30.110 and 25-30.120, F.A.C., and Order No. PSC-04-0615-FOF-WU (2007 Proceeding).⁹

At the time the Commission initiated the 2007 Proceeding, Kincaid had serious compliance issues with the Florida Department of Environmental Protection (DEP), as well as the United States Environmental Protection Agency (EPA). Despite finding "a continued pattern of disregard for the directions, orders, and rules of this Commission," and "a continued pattern of disregard for the timely payment of RAFs," the Commission again declined to order Kincaid to show cause, finding "exigent and mitigating circumstances" existed.¹⁰ At that time, the Commission reasoned that assessing additional penalties and requiring Kincaid to pay its delinquent RAFs and assessing Annual Report penalties would only further impair Kincaid's financial viability and its ability to address the DEP and EPA compliance issues.¹¹ Therefore, the Commission ordered that the outstanding RAFs amounts, including penalty and interest, owed by Kincaid for the years 1995 through 2006, be submitted to DFS to be written-off as uncollectible.¹² Kincaid was put on notice that "failure to timely file future annual reports will subject it to the penalties authorized by Rule 25-30.110(7), F.A.C., and to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues, as set forth in Section 367.161, F.S., or revocation proceedings pursuant to Section 367.161(2), F.S."¹³ In addition, the Commission found Kincaid eligible for a Staff-Assisted Rate Case (SARC). Finally, the Commission ordered that the 2007 Proceeding remain open until Kincaid filed its SARC application, and that staff was to bring a recommendation to the Commission should Kincaid fail to timely submit RAFs during the pendency of its SARC.¹⁴

In April 2008, Kincaid notified Commission staff that it would not pursue a SARC due to customer dissatisfaction expressed after Kincaid implemented recent rate increases.¹⁵ Between June 2007 and April 2008, Kincaid received two price-index increases, and a 4.5% pass-through

⁸ Between June 2004 and January 2006, Kincaid submitted \$12,000.00 of the total \$29,231.42 owed. \$10,903.86 was applied to past due RAF principals and \$1,096.14 to penalty and interest, which paid the entire RAF principal amounts owed for the years 1995 through 1999, and \$1,410.92 of the \$1,808.33 RAF principal owed for the year 2000.

⁹ Docket No. 070580-WU, *In re: Initiation of Show Cause Proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports; Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities; and of Order PSC-04-0615-FOF-WU*.

¹⁰ Order No. PSC-08-0044-FOF-WU, issued January 22, 2008, in Docket No. 070580-WU, pages 9 and 11.

¹¹ The Commission noted that "further collection efforts may cause the utility to abandon the system or cause it to be unable to make necessary repairs or maintain the safe provision of quality water to the customers of Kincaid." *Id.*, at pages 10 and 12; The Commission noted that, "in the last five months, the utility has worked diligently to pay off the 2004-2006 RAFs and has now filed all of its Annual Reports. Because of its financial problems and the need for maintenance, the utility has had problems with timely filing its Annual Reports and could not afford an accountant to assist it in such filing." *Id.*, at page 13.

¹² Total amount to be written-off was \$24,166.29. *Id.*, at pages 10 and 12.

¹³ *Id.*

¹⁴ *Id.*, at page 14.

¹⁵ Document No. 04657-08, filed in Docket No. 070580-WU.

increase, which allowed Kincaid to recover RAFs in its rates going forward. With the recent increases, Kincaid stated it could meet its obligations to pay RAFs and maintain Kincaid without a SARC.¹⁶ By Order No. PSC-08-0386-FOF-WU, the Commission ordered the 2007 Proceeding closed based on Kincaid submitting its 2007 RAFs¹⁷ and receiving the index and pass-through increases.¹⁸

The year following the closure of the 2007 Proceeding, Kincaid again failed to submit its RAFs for 2008, as well as for the years 2009, 2010, 2011, 2012, and 2013. Kincaid again failed to submit its Annual Reports for the years 2009, 2010, 2011, 2012, and 2013.¹⁹ Kincaid also failed to respond to staff's repeated attempts to contact Kincaid by telephone, mail, and email.²⁰ In June 2014, Kincaid's owner, Mr. Berdell Knowles, Sr., finally responded to staff regarding Kincaid's outstanding RAFs, outstanding Annual Reports, and payment options. Mr. Knowles, Sr. agreed to submit Kincaid's outstanding Annual Reports and RAF returns, along with an initial RAF payment by June 30, 2014.²¹ In addition, Mr. Knowles, Sr. was advised that the Commission may pursue further compliance action if Kincaid did not comply with a RAF payment plan.²² Mr. Knowles, Sr. failed to submit Kincaid's 2008-2013 RAF returns or an initial RAF payment, and failed to submit Kincaid's 2009-2013 Annual Reports, by June 30, 2014, as agreed and, again, failed to respond to staff's attempts to contact Kincaid.

In October 2014, due to staff's continued inability to contact Mr. Knowles, Sr., Commission staff communicated with the DEP staff assigned to Kincaid's compliance issues and obtained the contact information for Mr. Berdell Knowles, Jr., a corporate officer of Kincaid.²³ On October 20, 2014, staff spoke with Mr. Knowles, Jr. regarding Kincaid's delinquent RAF and Annual Report status, the lack of cooperation by Mr. Knowles, Sr. to engage in discussions with staff, and Kincaid's corporate and financial status. On October 23, 2014, staff held a conference call with Mr. Knowles, Jr., wherein Mr. Knowles, Jr. agreed to an initial compliance action plan to resolve Kincaid's compliance issues.²⁴ Mr. Knowles, Jr. agreed to submit all of Kincaid's delinquent Annual Reports for years 2009-2013, as well as the RAF amounts owed for the years 2010 and 2011, plus penalty and interest, by November 7, 2014.²⁵ As part of the initial compliance plan, Kincaid also agreed to continue working with staff regarding payment of the remaining RAF amounts owed, to consider pursuing a SARC, and to submit future RAFs and Annual Reports timely.²⁶

¹⁶ Order No. PSC-08-0386-FOF-WU, issued June 10, 2008, in Docket No. 070580-WU, page 2.

¹⁷ Kincaid submitted its 2007 RAFs three days late and, was, therefore, assessed an additional \$139.05, for statutory penalty and interest that accrued. Kincaid submitted the \$139.05 penalty on May 1, 2008.

¹⁸ Order No. PSC-08-0386-FOF-WU.

¹⁹ Kincaid's 2008 Annual Report was received 22 days late, on April 22, 2009.

²⁰ Attachment A, Exhibit A (Commission Staff Correspondence re: Kincaid Delinquent RAFs and Annual Reports).

²¹ Attachment A, Exhibit A (Staff Email, dated June 17, 2014, RE: Kincaid Hills Water Company WU690 – First Collections Delinquent RAFs.)

²² *Id.*

²³ Attachment A, Exhibit B (Kincaid Florida Corporate Information).

²⁴ Attachment A, Exhibit C (Commission Staff Correspondence re: Kincaid Compliance Plan).

²⁵ Attachment A, Exhibit C (Staff Emails with Mr. Knowles, Jr., RE: Kincaid Hills – Initial Compliance Plan.)

²⁶ *Id.*

On November 14, 2014, the Commission received Kincaid's payment in the amount of \$8,690.15, which satisfied the outstanding RAF amounts owed by Kincaid for 2010 and 2011.²⁷ On November 14, 2014, the Commission received Kincaid's Annual Reports for 2009-2013.²⁸ On February 16, 2015, staff held a conference call with Kincaid (Mr. Knowles, Sr. and Mr. Knowles, Jr. both participated), wherein Kincaid agreed to resolve its compliance issues, including negotiation of payment options for its past due RAFs, to submit future RAFs and Annual Reports timely, to pursue a SARC, and to update its corporate status with the Florida Secretary of State, Division of Corporations.²⁹ Since submitting the \$8,690.15 payment, however, Kincaid failed to meet the requirements of the initial compliance plan as agreed. Although Kincaid submitted its 2014, 2015, and 2016 Annual Reports timely, Kincaid failed to meet the other requirements of the initial compliance plan.³⁰ Specifically, Kincaid has failed to: (1) submit additional payments toward its remaining years of delinquent RAFs; (2) continue to work with staff regarding repayment of its remaining years of delinquent RAFs; (3) update its corporate status with the Florida Secretary of State, Division of Corporations; (4) apply for a SARC; and (5) to submit its 2016 RAFs.³¹

Commission staff received customer complaints regarding Kincaid on October 13, 2016, March 30, 2017, and May 8, 2017. To date, Kincaid has not responded to these customer complaints, nor has Kincaid provided a written response to Commission staff on each complaint.

By certified letter, dated July 31, 2017, Commission staff notified Kincaid of apparent violations of Sections 350.113, 350.117, 367.121, and 367.145, F.S., and Rules 25-30.110, 25-30.120, 25-30.355, and 25-22.032, F.A.C., and possible initiation of a show cause proceeding against the Utility for: (1) failing to remit payment of its annual RAFs for the years 2008, 2009, 2012, 2013, and 2016; (2) failing to timely submit its Annual Reports for the years 2009, 2010, 2011, 2012, and 2013; and (3) failing to respond to customer complaints and to provide a written response to Commission staff regarding customer complaints.³² Kincaid's owner, Mr. Knowles, Sr., was informed in that letter that Section 367.161, F.S., provides in pertinent part:

- (1) If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be

²⁷ The payment was postmarked November 7, 2014. The payment breakdown was as follows: \$4,491.55 (2010 RAFs \$2,642.09 + Penalty \$660.52 + Interest \$1,188.94); and \$4,198.60 (2011 RAFs \$2657.34 + Penalty \$664.34 + Interest \$876.92)

²⁸ Kincaid emailed its 2009-2013 Annual Reports to staff on November 7, 2014; however, Rule 25-30.110, F.A.C., requires reports be certified and submitted to the Commission in paper form. The Commission staff received the paper form of the Annual Reports on November 14, 2014. See Attachment A, Exhibit C (Staff Emails with Mr. Knowles, Jr., re: Kincaid Hills - Received Delinquent Annual Reports & 2010-11 RAF Payment; and Staff Emails with Mr. Knowles, Jr., re: Kincaid Hills - Annual Reports Insufficient.)

²⁹ See Attachment A, Exhibit C (Staff Emails with Mr. Knowles, Jr., RE: Kincaid Hills – Rate Case & RAFs.)

³⁰ See Attachment A, Exhibits B and C.

³¹ See Attachment A, Exhibits B and C.

³² See Attachment A.

a lien upon the real and personal property of the utility, enforceable by the commission as statutory liens under chapter 85.

- (2) The commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85.

Staff's letter put Kincaid on notice that Commission staff would open a docket to initiate a show cause proceeding if Kincaid did not correct the violations by remitting payment of the delinquent RAFs, remitting payment for penalties for late-filed Annual Reports, and submitting written responses to the customer complaints by August 31, 2017. Commission staff further notified Kincaid that should the Utility ultimately be found in violation of Commission statutes, rules, or orders, the Commission may impose fines of up to \$5,000 per violation, for each day each violation continues, including levying a statutory lien upon the real and personal property of the Utility, or the Commission may amend, suspend, or revoke Kincaid's certificate, pursuant to Section 367.161, F.S. Additionally, Commission staff stated that, if necessary, the Commission may also seek injunctive or other appropriate relief in circuit court to compel Kincaid's compliance, pursuant to Section 367.121, F.S. To date, Kincaid has not remitted payment of the delinquent RAFs, remitted payment for penalties for late-filed Annual Reports, or submitted written responses to the customer complaints, in response to staff's letter.

By certified letter, dated September 28, 2017, the Commission's Office of the General Counsel notified Kincaid that Commission staff opened a docket initiating a show cause proceeding for the Utility's apparent statute and rule violations.³³

This recommendation addresses whether or not the Commission should order Kincaid to show cause why it is not obligated to submit the relevant payments and fines and bring itself into compliance with the Commission's statutes and rules. Issue 1 is staff's recommendation regarding Kincaid's apparent violation of Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., for failure to submit RAFs for the years 2008, 2009, 2012, 2013, and 2016. Issue 2 is staff's recommendation regarding Kincaid's apparent violation of Section 367.121, F.S., and Rule 25-30.110, F.A.C., for failure to timely submit its Annual Reports for the years 2009, 2010, 2011, 2012, and 2013. Issue 3 is staff's recommendation regarding Kincaid's apparent violation of Rules 25-30.355 and 25-22.032, F.A.C., for failing to respond to customer complaints. Issue 4 discusses the closing of the docket and options for pursuing collection of the past due RAFs, Annual Report penalties, and penalties for failing to respond to customer complaints, along with the procedure for the option of initiating revocation proceedings.

³³ See, Document No. 07952-2017, in Docket No. 20170200-WU.

When evaluating staff's recommendation, a review of the Commission's authority regarding a utility's alleged violations of Commission rules, statutes, or orders is helpful.

Pursuant to Section 367.161(1), F.S., the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$5,000 for each such day a violation continues, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 367, F.S. Each day a violation continues is treated as a separate offense. Each penalty is a lien upon the real and personal property of the utility and is enforceable by the Commission as a statutory lien. If a penalty is also assessed by another state agency for the same violation, the Commission's penalty will be reduced by the amount of the other agency's penalty. As an alternative to the above remedies, Section 367.161(2), F.S., permits the Commission to amend, suspend, or revoke a utility's certificate for any such violation. Part of the determination the Commission must make in evaluating whether to penalize a utility is whether the utility willfully violated the rule, statute, or order. Section 367.161, F.S., does not define what it is to "willfully violate" a rule or order.

Willfulness is a question of fact.³⁴ The plain meaning of "willful" typically applied by the Courts in the absence of a statutory definition, is an act or omission that is done "voluntarily and intentionally" with specific intent and "purpose to violate or disregard the requirements of the law." *Fugate* at 76.

The procedure followed by the Commission in dockets such as this is to consider the Commission staff's recommendation and determine whether or not the facts warrant requiring the utility to respond. If the Commission finds that the facts warrant requiring the utility to respond, the Commission issues an Order to Show Cause (show cause order). A show cause order is considered an administrative complaint by the Commission against the utility. If the Commission issues a show cause order, the utility is required to file a written response, which response must contain specific allegations of disputed fact. If there are no disputed factual issues, the utility's response should so indicate. The response must be filed within 21 days of service of the show cause order on the respondent.

In recommending a penalty, staff reviews prior Commission orders. While Section 367.161, F.S., treats each day of each violation as a separate offense with penalties of up to \$5,000 per offense, staff believes that the general purpose of the show cause penalties is to obtain compliance with the Commission's rules, statutes, and orders. If a utility has a pattern of noncompliance with a particular rule or set of rules, staff believes that a higher penalty is warranted. If the rule violation adversely impacts the public health, safety, or welfare, staff believes that the sanction should be the most severe.

The utility has two options if a show cause order is issued. The utility may respond and request a hearing pursuant to Sections 120.569 and 120.57, F.S. If the utility requests a hearing, a further proceeding will be scheduled before the Commission makes a final determination on the matter. The utility may respond to the show cause order by remitting the fine and bringing itself into compliance with the Commission's statutes and rules. If the utility pays the fine and brings itself

³⁴ *Fugate v. Fla. Elections Comm'n*, 924 So. 2d 74, 75 (Fla. 1st DCA 2006), citing, *Metro. Dade County v. State Dep't of Env'tl. Prot.*, 714 So. 2d 512, 517 (Fla. 3d DCA 1998).

into compliance with the Commission's statutes and rules, this show cause matter is considered resolved, and the docket closed.

In the event the utility fails to timely respond to the show cause order, the utility is deemed to have admitted the factual allegations contained in the show cause order. The utility's failure to timely respond is also a waiver of its right to a hearing. If the utility does not timely respond, a final order will be issued imposing the sanctions set out in the show cause order. It should be noted that if the Commission commences revocation or suspension proceedings, the Commission must follow very specific noticing requirements set forth in Section 120.60, F.S., prior to revocation or suspension of a certificate.

The Commission has jurisdiction pursuant to Sections 350.113, 367.121, 367.145, and 367.161, F.S.

Date: October 26, 2017

Discussion of Issues

Issue 1: Should Kincaid Hills Water Company be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of \$22,403.19, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2008, 2009, 2012, 2013, and 2016?

Recommendation:

Alternative 1 Recommendation: Yes. Kincaid Hills Water Company should be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of \$22,403.19, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2008, 2009, 2012, 2013, and 2016. Specifically, staff recommends that the Utility be directed to pay its past due RAFs in the amount of \$2,279.75 for 2008, \$2,712.33 for 2009, \$2,634.08 for 2012, \$2,239.02 for 2013, and \$2,006.69 for 2016, including statutory interest and penalties in the amounts of \$2,963.68 for 2008, \$3,200.55 for 2009, \$2,159.95 for 2012, \$1,544.93 for 2013, and \$662.21 for 2016. (DuVal, Cuello, Hicks, McCoy, Smith)

Alternative 2 Recommendation: No. The Commission should direct staff to initiate certificate revocation proceedings against Kincaid Hills Water Company consistent with Chapter 120 and Section 367.161, F.S. (DuVal, Cuello, Hicks, McCoy, Smith)

Staff Analysis:

Applicable Law

Pursuant to Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., each regulated company under the jurisdiction of the Commission shall pay to the Commission a RAF based upon the gross operating revenues for the prior year operating period. Rule 25-30.120, F.A.C., requires that utilities pay a regulatory assessment fee of 4.5 percent of its gross revenues derived from intrastate business, or a minimum of \$25.00 if there are no revenues or if revenues are insufficient to generate above the \$25.00 minimum. Section 350.113(4), F.S., provides for a penalty of 5 percent for the first 30 days, and an additional penalty of “5 percent for each additional 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of 25 percent,” and states that “the commission shall collect the fee and penalty, plus interest and all costs of collection, from the regulated company.” Section 367.145(1)(b), F.S., states that, in addition to the penalties and interest otherwise provided, the Commission may impose a penalty upon a utility for failure to pay regulatory assessment fees in a timely manner in accordance with Section 367.161, F.S. Further, Rule 25-30.120(7)(b), F.A.C., provides that, in addition to statutory penalties and interest, the Commission may impose an additional penalty upon a utility for failing to pay RAFs timely, pursuant to Section 367.161, F.S.

Pursuant to Section 367.161, F.S., the commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, for each such day a violation continues, which penalty shall be fixed, imposed, and collected by the commission; or the

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commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it.

Willfulness is a question of fact.³⁵ Therefore, part of the determination the Commission must make in evaluating whether to penalize a utility is whether the utility willfully violated the rule, statute, or order. Section 367.161, F.S., does not define what it is to “willfully violate” a rule or order. The plain meaning of “willful” typically applied by the Courts in the absence of a statutory definition, is an act or omission that is done “voluntarily and intentionally” with specific intent and “purpose to violate or disregard the requirements of the law.” *Fugate* at 76.

Factual Allegations

Commission records indicate that Kincaid failed to submit RAFs for the years 2008, 2009, 2012, 2013, and 2016.³⁶ Kincaid has a long history of failing to submit RAFs, and has had two enforcement proceedings brought by the Commission in 2004 and 2007 for failing to submit RAFs.³⁷ In fact, since coming under the Commission’s jurisdiction in 1993, Kincaid has only submitted RAFs timely two times (2014 and 2015).³⁸ Despite the numerous attempts by the Commission and staff over the last 13 years to work with Kincaid to resolve its RAF compliance issues, Kincaid has repeatedly failed to comply with its statutory and regulatory obligations.

Because Kincaid failed to submit its 2008, 2009, 2012, 2013, and 2016 RAFs timely, statutory penalties and interest are also due.

The total amount owed by Kincaid for 2008, 2009, 2012, 2013, and 2016 RAFs, plus associated penalties and interest, calculated through November 7, 2017, is \$22,403.19. A breakdown of the amount is shown in the table below.

³⁵ *Fugate*, 924 So. 2d 74 at 75.

³⁶ Kincaid submitted its 2010 and 2011 RAFs, plus penalty and interest, on November 14, 2014, as part of on-going compliance/settlement negotiations with Commission staff.

³⁷ Docket No. 040248-WU, *In Re: Initiation of show cause proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities*; and Docket No. 070580-WU, *In Re: Initiation of Show Cause Proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports; Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities; and of Order PSC-04-0615-FOF-WU*.

³⁸ Kincaid submitted its 2007 RAFs three days late and paid the associated penalty and interest.

Year³⁹	Revenues	RAFs (4.5%)	Penalty (5% up to 25%) (As of 11/7/17)	Interest (1% through 08/31/17) (As of 11/7/17)	Payments	Total Due
2016	\$44,593.00	\$2,006.69	\$501.67	\$160.54	\$0.00	\$2,668.90
2013	\$49,756.00	\$2,239.02	\$559.76	\$985.17	\$0.00	\$3,739.17
2012	\$58,535.00	\$2,634.08	\$658.52	\$1,501.43	\$0.00	\$4,715.00
2009	\$60,274.00	\$2,712.33	\$678.08	\$2,522.47	\$0.00	\$5,858.63
2008	\$50,661.00	\$2,279.75	\$569.94	\$2,393.74	\$0.00	\$5,197.83
Totals	\$263,819.00	\$11,871.87	\$2967.97	\$9,629.21	\$12,888.25	\$22,403.19

Alternative 1 Recommendation

By knowingly failing to comply with the provisions of Sections 350.113 and 367.145, F.S., and Rule 25-30.120, F.A.C., staff believes Kincaid's acts were "willful" in the sense intended by Section 367.161, F.S., and contemplated by *Fugate*. Therefore, staff recommends that Kincaid Hills Water Company be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of \$22,403.19, for delinquent Regulatory Assessment Fees, plus statutory penalties and interest, for the years 2008, 2009, 2012, 2013, and 2016. Specifically, staff recommends that the Utility be directed to pay its past due RAFs in the amount of \$2,279.75 for 2008, \$2,712.33 for 2009, \$2,634.08 for 2012, \$2,239.02 for 2013, and \$2,006.69 for 2016, including statutory interest and penalties in the amounts of \$2,963.68 for 2008, \$3,200.55 for 2009, \$2,159.95 for 2012, \$1,544.93 for 2013, and \$662.21 for 2016. Staff recommends that the show cause order incorporate the following conditions:

1. This show cause order is an administrative complaint by the Florida Public Service Commission, as petitioner, against Kincaid Hills Water Company, as respondent.
2. Kincaid shall respond to the show cause order within 21 days of service on the Utility, and the response shall reference Docket No. 20170200-WU, Initiation of show cause proceedings against Kincaid Hills Water Company, in Alachua County, for noncompliance with Sections 350.113, 350.117, 367.121, and 367.145, Florida Statutes, and Rules 25-30.110, 25-30.120, 25-30.355, and 25-22.032, Florida Administrative Code.

³⁹ Kincaid timely submitted its 2014 and 2015 RAFs.

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3. Kincaid has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, F.S., and to be represented by counsel or other qualified representative.
4. Requests for hearing shall comply with Rule 28-106.2015, F.A.C.
5. Kincaid's response to the show cause order shall identify those material facts that are in dispute. If there are none, the petition must so indicate.
6. If Kincaid files a timely written response and makes a request for a hearing pursuant to Sections 120.569 and 120.57, F.S., a further proceeding will be scheduled before a final determination of this matter is made.
7. A failure to file a timely written response to the show cause order will constitute an admission of the facts herein alleged and a waiver of the right to a hearing on this issue.
8. In the event that Kincaid fails to file a timely response to the show cause order, the fine will be deemed assessed and a final order will be issued.
9. If Kincaid responds to the show cause order by remitting the fine, this show cause matter will be considered resolved, and the docket closed.

Furthermore, the Utility should be warned and put on notice that continued failure to comply with Commission orders, rules, or statutes will again subject the Utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues, or the Commission may amend, suspend, or revoke Kincaid's certificate, as set forth in Section 367.161, F.S.

Alternative 2 Recommendation

In the alternative, Commission staff should be directed to send a letter to the Utility, giving the Utility 30 days notice that it intends to commence revocation proceedings. Revocation would be in lieu of the penalties set forth above. In evaluating this option, it would be important for the Commission to consider Kincaid's management's history, specifically, the fact that the Utility has a long history of noncompliance. Staff believes that Kincaid has a poor record of complying with applicable rules and statutes under Commission jurisdiction. Notably, this is the fourth time staff has opened a docket to initiate a show cause proceeding since Kincaid became subject to the Commission's jurisdiction in 1993. The Commission similarly initiated revocation proceedings against St. George Island Utility Company, Ltd. in Franklin County as a result of that utility's history of noncompliance with orders, rules, and statutory requirements.⁴⁰

Commission staff is concerned that Kincaid's management does not understand how to and is not willing to commit the time to operate a utility within the meaning of Chapter 367, F.S. The

⁴⁰ Order No. PSC-93-0370-AS-WU, issued March 9, 1993, in Docket No. 920782-WU, *In re: Revocation by Florida Public Service Commission of Certificate No. 302-W issued to St. George Island Utility Company, Ltd. In Franklin County.*

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operation of a utility under Chapter 367, F.S., if successful, allows a utility the opportunity to earn a return on its investment. If management is not willing to operate as a utility, the Utility's certificate should be revoked, removing any opportunity the owner has to earn a return on its investment. If the certificate is revoked, a receiver must be appointed pursuant to Section 367.165, F.S., until a sale of the utility system has been approved pursuant to Section 367.071, F.S.

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Issue 2: Should Kincaid Hills Water Company be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of \$14,376, in statutory penalties for failing to timely submit its Annual Reports for the years 2009, 2010, 2011, 2012, and 2013?

Recommendation:

Alternative 1 Recommendation: Yes. Kincaid Hills Water Company should be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of \$14,376, in statutory penalties for failing to timely submit its Annual Reports for the years 2009, 2010, 2011, 2012, and 2013. (DuVal, Cuello, Hicks, McCoy, Smith)

Alternative 2 Recommendation: No. The Commission should direct staff to initiate certificate revocation proceedings against Kincaid Hills Water Company consistent with Chapter 120 and Section 367.161, F.S. (DuVal, Cuello, Hicks, McCoy, Smith)

Staff Analysis:

Applicable Law

Section 367.121(1)(c) and (i), F.S., authorizes the Commission to require utilities subject to its jurisdiction to file such regular financial reports it deems necessary. Rule 25-30.110(3)(a), F.A.C., provides that each utility under the jurisdiction of the Commission shall file an Annual Report on or before March 31st, for the preceding year ending December 31. The standard penalty for delinquent Annual Reports is \$3 per day, pursuant to Rule 25-30.110(7), F.A.C.

Pursuant to Section 367.161, F.S., the commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, for each such day a violation continues, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it.

Willfulness is a question of fact.⁴¹ Therefore, part of the determination the Commission must make in evaluating whether to penalize a utility is whether the utility willfully violated the rule, statute, or order. Section 367.161, F.S., does not define what it is to “willfully violate” a rule or order. The plain meaning of “willful” typically applied by the Courts in the absence of a statutory definition, is an act or omission that is done “voluntarily and intentionally” with specific intent and “purpose to violate or disregard the requirements of the law.” *Fugate* at 76.

⁴¹ *Fugate*, 924 So. 2d 74 at 75.

Factual Allegations

A review of Commission records indicates that Kincaid has repeatedly failed to submit its Annual Reports. Since coming under Commission jurisdiction in 1993, Kincaid has only submitted five Annual Reports on time (1997, 2007, 2014, 2015, 2016).⁴²

Therefore, the total penalty amount owed by Kincaid for failing to timely submit its annual reports for the years 2009 to 2013 is \$14,376. A breakdown of the amount is shown in the table below.

YEAR	DATE DUE	DATE SUBMITTED	DAYS LATE	PENALTY (\$3 per day)
2013	03/31/2014	11/14/2014	228	\$684.00
2012	04/01/2013	11/14/2014	593	\$1,779.00
2011	04/02/2012	11/14/2014	958	\$2,874.00
2010	03/31/2011	11/14/2014	1,324	\$3,972.00
2009	03/31/2010	11/14/2014	1,689	\$5,067.00
TOTAL			4,792	\$14,376.00

Alternative 1 Recommendation

By knowingly failing to comply with the provisions of Section 367.121, F.S., and Rule 25-30.110, F.A.C., staff believes Kincaid's acts were "willful" in the sense intended by Section 367.161, F.S., and contemplated by *Fugate*. Therefore, staff recommends that Kincaid Hills Water Company should be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of \$14,376, in statutory penalties for failing to submit its Annual Reports for the years 2009, 2010, 2011, 2012, and 2013. Staff recommends that the show cause order incorporate the following conditions:

1. This show cause order is an administrative complaint by the Florida Public Service Commission, as petitioner, against Kincaid Hills Water Company, as respondent.
2. Kincaid shall respond to the show cause order within 21 days of service on the Utility, and the response shall reference Docket No. 20170200-WU, Initiation of show cause proceedings against Kincaid Hills Water Company, in Alachua County, for noncompliance with Sections 350.113, 350.117, 367.121, and 367.145, Florida Statutes, and Rules 25-30.110, 25-30.120, 25-30.355, and 25-22.032, Florida Administrative Code.
3. Kincaid has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, F.S., and to be represented by counsel or other qualified representative.
4. Requests for hearing shall comply with Rule 28-106.2015, F.A.C.

⁴² Kincaid's 2008 Annual Report was received 22 days late, on April 22, 2009.

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5. Kincaid's response to the show cause order shall identify those material facts that are in dispute. If there are none, the petition must so indicate.
6. If Kincaid files a timely written response and makes a request for a hearing pursuant to Sections 120.569 and 120.57, F.S., a further proceeding will be scheduled before a final determination of this matter is made.
7. A failure to file a timely written response to the show cause order will constitute an admission of the facts herein alleged and a waiver of the right to a hearing on this issue.
8. In the event that Kincaid fails to file a timely response to the show cause order, the fine will be deemed assessed and a final order will be issued.
9. If Kincaid responds to the show cause order by remitting the fine, this show cause matter will be considered resolved, and the docket closed.

Furthermore, the Utility should be warned and put on notice that continued failure to comply with Commission orders, rules, or statutes will again subject the Utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues, or the Commission may amend, suspend, or revoke Kincaid's certificate, as set forth in Section 367.161, F.S.

Alternative 2 Recommendation

In the alternative, Commission staff should be directed to send a letter to the Utility, giving the Utility 30 days notice that it intends to commence revocation proceedings. Revocation would be in lieu of the penalties set forth above. In evaluating this option, it would be important for the Commission to consider Kincaid's management's history, specifically, the fact that the Utility has a long history of noncompliance. Staff believes that Kincaid has a poor record of complying with applicable rules and statutes under Commission jurisdiction. Notably, this is the fourth time staff has opened a docket to initiate a show cause proceeding since Kincaid became subject to the Commission's jurisdiction in 1993. The Commission similarly initiated revocation proceedings against St. George Island Utility Company, Ltd. in Franklin County as a result of that utility's history of noncompliance with orders, rules, and statutory requirements.⁴³

Commission staff is concerned that Kincaid's management does not understand how to and is not willing to commit the time to operate a utility within the meaning of Chapter 367, F.S. The operation of a utility under Chapter 367, F.S., if successful, allows a utility the opportunity to earn a return on its investment. If management is not willing to operate as a utility, the Utility's certificate should be revoked, removing any opportunity the owner has to earn a return on its investment. If the certificate is revoked, a receiver must be appointed pursuant to Section 367.165, F.S., until a sale of the utility system has been approved pursuant to Section 367.071, F.S.

⁴³ Order No. PSC-93-0370-AS-WU, issued March 9, 1993, in Docket No. 920782-WU, *In re: Revocation by Florida Public Service Commission of Certificate No. 302-W issued to St. George Island Utility Company, Ltd. In Franklin County.*

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Issue 3: Should Kincaid Hills Water Company be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of \$750 in statutory penalties, respond to the customer complaints submitted on October 13, 2016, March 30, 2017, and May 8, 2017, and to provide a written response to Commission staff on each complaint?

Recommendation:

Alternative 1 Recommendation: Yes. Kincaid Hills Water Company should be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of \$750 in statutory penalties, respond to the customer complaints submitted on October 13, 2016, March 30, 2017, and May 8, 2017, and to provide a written response to Commission staff on each complaint. Specifically, staff recommends that the Utility be directed to pay a statutory penalty in the amount of \$250 for failing to respond to a customer complaint dated October 13, 2016, a statutory penalty in the amount of \$250 for failing to respond to a customer complaint dated March 30, 2017, and a statutory penalty in the amount of \$250 for failing to respond to a customer complaint dated May 8, 2017. (DuVal, Cuello, Hicks, McCoy, Smith)

Alternative 2 Recommendation: No. The Commission should direct staff to initiate certificate revocation proceedings against Kincaid Hills Water Company consistent with Chapter 120 and Section 367.161, F.S. (DuVal, Cuello, Hicks, McCoy, Smith)

Staff Analysis:

Applicable Law

Rule 25-30.355, F.A.C., requires that a utility make a full and prompt acknowledgment and investigation of all customer complaints and respond fully and promptly to all customer requests. Finally, Rule 25-22.032(6)(b), F.A.C., requires that a utility respond to a customer complaint received by the Commission by contacting the customer within 15 working days after receiving the complaint from Commission staff and provide a written response to the complaint to Commission staff within 15 working days after receiving the complaint from Commission staff.

Pursuant to Section 367.161, F.S., the commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, for each such day a violation continues, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it.

Willfulness is a question of fact.⁴⁴ Therefore, part of the determination the Commission must make in evaluating whether to penalize a utility is whether the utility willfully violated the rule, statute, or order. Section 367.161, F.S., does not define what it is to “willfully violate” a rule or order. The plain meaning of “willful” typically applied by the Courts in the absence of a

⁴⁴ *Fugate*, 924 So. 2d 74 at 75.

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statutory definition, is an act or omission that is done “voluntarily and intentionally” with specific intent and “purpose to violate or disregard the requirements of the law.” *Fugate* at 76.

Factual Allegations

A review of Commission records shows that Kincaid is not timely responding to customer complaints. The Commission’s Consumer Activity Tracking System (CATS) shows three customer complaints in which Kincaid has failed to respond to both the customer and the Commission staff. Staff has compiled a list of customer complaints currently open with the Commission, along with a copy of each of the CATS complaint records for review.⁴⁵ These complaints were submitted to the Commission on October 13, 2016, March 30, 2017, and May 8, 2017. The complaints show that customers reported regularly experiencing difficulty in reaching a Utility representative and reported Kincaid’s telephone number being out-of-service on occasions. Commission staff has experienced great difficulty in reaching Kincaid regarding the customer complaints.⁴⁶ Furthermore, Kincaid has failed to adequately respond to Commission staff’s repeated attempts to contact Kincaid by telephone, mail, and e-mail in order to resolve the complaints.⁴⁷ To date, Kincaid has not responded to these customer complaints and has not provided a written response to Commission staff on these complaints.

Alternative 1 Recommendation

Where available, staff looks to prior Commission Orders for guidance on the amount and type of fines for each violation. Order No. PSC-06-0349-SC-WS⁴⁸ involved a similar rule violation. The Commission penalized Lindrick Service Corporation (Lindrick) for failure to properly handle customer complaints in violation of Rule 25-22.032, F.A.C. In the Lindrick docket, Commission staff conducted a study of Lindrick’s practices. Staff issued a report, referred to as the 2005 report. Based in part on the report, the Commission found that Lindrick did not properly track its customer complaints and inquiries. The Commission also found that Lindrick did not accurately monitor and trend its customer complaints. Furthermore, Lindrick did not timely respond to five complaints. In response, Lindrick argued that it did try to monitor and track the complaints, but then Lindrick agreed with the Commission that a more formal tracking system would be helpful. By the time of the issuance of the show cause order, Lindrick had taken several proactive steps to remedy the problems identified by staff in its 2005 report. Lindrick worked with staff to establish a tracking system to correct its deficiencies, for which the Commission reduced the recommended penalty from \$250 to \$125. Accordingly, the Commission fined Lindrick \$125 for its violations of Rule 25-22.032, F.A.C., which was a reduction of the original staff recommendation of \$250 for the violation.

⁴⁵ Attachment A, Exhibit D (Open CATS Customer Complaints).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Order No. PSC-06-0349-SC-WS, issued April 25, 2006, in Docket No. 060057-WS, *In re: Investigation into whether Lindrick Service Corporation should be ordered to show cause.*

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Order No. PSC-11-0541-SC-WS⁴⁹ also involved a similar rule violation. In that docket, the Commission penalized Four Points Utility Corporation (Four Points) for failure to fully and promptly acknowledge and investigate all customer complaints and furnish replies to inquiries by Commission staff within 15 days from the date of the inquiry, as required by Rule 25-30.355, F.A.C. Four Points did not timely respond to 38 complaints (over seven times the number of untimely responses as Lindrick). Unlike Lindrick, Four Points did not attempt to work with staff to correct its deficiencies. Accordingly, using prior Order No. PSC-06-0349-SC-WS, as a guide, the Commission ordered Four Points to show cause, in writing within 21 days, why it should not have been fined in the amount of \$1,750 (\$250 x 7) for failure to fully and promptly acknowledge and investigate all customer complaints and furnish replies to inquiries by Commission staff within 15 days from the date of the inquiry, as required by Rule 25-30.355, F.A.C.

Kincaid has not timely responded to three complaints. However, similar to Four Points, Kincaid has not attempted to work with staff to correct its deficiencies. Accordingly, using prior Order Nos. PSC-06-0349-SC-WS and PSC-11-0541-SC-WS, as a guide, Kincaid should be ordered to show cause, in writing within 21 days, why it should not be fined in the amount of \$750 (\$250 x 3) for failure to fully and promptly acknowledge and investigate all customer complaints and furnish replies to inquiries by Commission staff within 15 days from the date of the inquiry, as required by Rule 25-30.355, F.A.C.

By knowingly failing to comply with the provisions of Rules 25-22.032(6)(b) and 25-30.355, F.A.C., staff believes Kincaid's acts were "willful" in the sense intended by Section 367.161, F.S., and contemplated by *Fugate*. Therefore, staff recommends that Kincaid Hills Water Company should be ordered to show cause in writing, within 21 days, why it is not obligated to remit payment in the amount of \$750 in statutory penalties, respond to the three referenced customer complaints, and to provide a written response to Commission staff on each complaint. Specifically, staff recommends that the Utility be directed to pay a statutory penalty in the amount of \$250 for failing to respond to a customer complaint dated October 13, 2016, a statutory penalty in the amount of \$250 for failing to respond to a customer complaint dated March 30, 2017, and a statutory penalty in the amount of \$250 for failing to respond to a customer complaint dated May 8, 2017. Staff recommends that the show cause order incorporate the following conditions:

1. This show cause order is an administrative complaint by the Florida Public Service Commission, as petitioner, against Kincaid Hills Water Company, as respondent.
2. Kincaid shall respond to the show cause order within 21 days of service on the Utility, and the response shall reference Docket No. 20170200-WU, Initiation of show cause proceedings against Kincaid Hills Water Company, in Alachua County, for noncompliance with Sections 350.113, 350.117, 367.121, and 367.145, Florida

⁴⁹ Order No. PSC-11-0541-SC-WS, issued November 22, 2011, in Docket No. 110254-WS, *In re: Initiation of show cause proceedings against Four Points Utility Corporation in Polk County for violation of Commission rules and regulations as outlined in the Florida Public Service Commission's management audit for Four Points Utility Corporation and Bimini Bay Utilities Corporation issued June 2011.*

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Statutes, and Rules 25-30.110, 25-30.120, 25-30.355, and 25-22.032, Florida Administrative Code.

3. Kincaid has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, F.S., and to be represented by counsel or other qualified representative.
4. Requests for hearing shall comply with Rule 28-106.2015, F.A.C.
5. Kincaid's response to the show cause order shall identify those material facts that are in dispute. If there are none, the petition must so indicate.
6. If Kincaid files a timely written response and makes a request for a hearing pursuant to Sections 120.569 and 120.57, F.S., a further proceeding will be scheduled before a final determination of this matter is made.
7. A failure to file a timely written response to the show cause order will constitute an admission of the facts herein alleged and a waiver of the right to a hearing on this issue.
8. In the event that Kincaid fails to file a timely response to the show cause order, the fine will be deemed assessed and a final order will be issued.
9. If Kincaid responds to the show cause order by remitting the fine, responding to the customer complaints, and providing a written response to Commission staff on each complaint, this show cause matter will be considered resolved, and the docket closed.

Furthermore, the Utility should be warned and put on notice that continued failure to comply with Commission orders, rules, or statutes will again subject the Utility to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues, or the Commission may amend, suspend, or revoke Kincaid's certificate, as set forth in Section 367.161, F.S.

Alternative 2 Recommendation

In the alternative, Commission staff should be directed to send a letter to the Utility, giving the Utility 30 days notice that it intends to commence revocation proceedings. Revocation would be in lieu of the penalties and required actions set forth above. In evaluating this option, it would be important for the Commission to consider Kincaid's management's history, specifically, the fact that the Utility has a long history of noncompliance. Staff believes that Kincaid has a poor record of complying with applicable rules and statutes under Commission jurisdiction. Notably, this is the fourth time staff has opened a docket to initiate a show cause proceeding since Kincaid became subject to the Commission's jurisdiction in 1993. The Commission similarly initiated

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revocation proceedings against St. George Island Utility Company, Ltd. in Franklin County as a result of that utility's history of noncompliance with orders, rules, and statutory requirements.⁵⁰

Commission staff is concerned that Kincaid's management does not understand how to and is not willing to commit the time to operate a utility within the meaning of Chapter 367, F.S. The operation of a utility under Chapter 367, F.S., if successful, allows a utility the opportunity to earn a return on its investment. If management is not willing to operate as a utility, the Utility's certificate should be revoked, removing any opportunity the owner has to earn a return on its investment. If the certificate is revoked, a receiver must be appointed pursuant to Section 367.165, F.S., until a sale of the utility system has been approved pursuant to Section 367.071, F.S.

⁵⁰ Order No. PSC-93-0370-AS-WU, issued March 9, 1993, in Docket No. 920782-WU, *In re: Revocation by Florida Public Service Commission of Certificate No. 302-W issued to St. George Island Utility Company, Ltd. In Franklin County.*

Date: October 26, 2017

Issue 4: Should this docket be closed?

Recommendation: If the Commission orders Kincaid to show cause as to Issues 1, 2, and 3, and Kincaid timely responds in writing to the Order to Show Cause, this docket should remain open to allow for the appropriate processing of the response. If the Commission orders Kincaid to show cause as to Issues 1, 2, and 3, and Kincaid responds to the show cause order by remitting the fines, responding to the customer complaints, and providing a written response to Commission staff on each complaint, this show cause matter will be considered resolved, and the docket should be closed administratively. If the Commission orders Kincaid to show cause as to Issues 1, 2, and 3, and Kincaid does not remit payment, or does not respond to the Order to Show Cause, this docket should remain open to allow the Commission to pursue collection of the amounts owed by the Utility. Alternatively, if the Commission orders that a proceeding to revoke Kincaid's water certificate should be initiated, this docket should remain open until such a proceeding can be initiated. (DuVal, Cuello)

Staff Analysis: If the Commission orders Kincaid to show cause as to Issues 1, 2, and 3, and Kincaid timely responds in writing to the Order to Show Cause, this docket should remain open to allow for the appropriate processing of the response. If the Commission orders Kincaid to show cause as to Issues 1, 2, and 3, and Kincaid responds to the show cause order by remitting the fines, responding to the customer complaints, and providing a written response to Commission staff on each complaint, this show cause matter will be considered resolved, and the docket should be closed administratively. If the Commission orders Kincaid to show cause as to Issues 1, 2, and 3, and Kincaid does not remit payment, or does not respond to the Order to Show Cause, this docket should remain open to allow the Commission to pursue collection of the amounts owed by the Utility. Alternatively, if the Commission orders that a proceeding to revoke Kincaid's water certificate should be initiated, this docket should remain open until such a proceeding can be initiated.

COMMISSIONERS:
JULIE I. BROWN, CHAIRMAN
ART GRAHAM
RONALD A. BRISÉ
DONALD J. POLMANN

STATE OF FLORIDA



KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

NOTICE OF NONCOMPLIANCE

July 31, 2017

Mr. Berdell Knowles, Sr., Owner
Mr. Berdell Knowles, Jr., President/CEO
KINCAID HILLS WATER COMPANY
P.O. Box 15016
Gainesville, FL 32602
KINCAIDHILLSWATERCO@YAHOO.COM
berdell@alum.mit.edu

VIA CERTIFIED & ELECTRONIC MAIL
Certified Receipt #: 7006 0810 0002 33354 2751

RE: Kincaid Hills Water Company – Noncompliance with Sections 350.113, 350.117, 367.121, and 367.145, Florida Statutes, and Rules 25-30.110, 25-30.120, 25-30.355, and 25-22.032, Florida Administrative Code, and possible implementation of show cause proceedings against Kincaid Hills Water Company, pursuant to Section 367.161, Florida Statutes.

Dear Sirs:

A review of Commission records indicates that Kincaid Hills Water Company (Kincaid) is not in compliance with several Commission-related statutes and rules. If a utility fails to comply with Commission statutes, rules, or orders, Section 367.161, Florida Statutes (F.S.), authorizes the Commission to take enforcement action, including the collection of penalties. Section 367.161, F.S., provides:

- (1) If any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of this chapter or any lawful rule or order of the commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission. . . . Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the utility, enforceable by the commission as statutory liens under chapter 85.

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- (2) The commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85.

As required by Section 120.695(2)(a), F.S., Kincaid's noncompliance with Commission statutes, rules, and orders is outlined below.

A. Regulatory Assessment Fees

Legal Authority

Pursuant to Sections 350.113 and 367.145, F.S., and Rule 25-30.120, Florida Administrative Code (F.A.C.), each regulated company under the jurisdiction of the Commission shall pay to the Commission a regulatory assessment fee (RAF) based upon the gross operating revenues for the prior year operating period. Rule 25-30.120, F.A.C., requires that utilities pay a regulatory assessment fee of four and a half percent (4.5%) of its gross revenues derived from intrastate business, or a minimum of \$25.00 if there are no revenues or if revenues are insufficient to generate above the \$25.00 minimum. Section 350.113(4), F.S., provides for a penalty of five percent (5%) for the first 30 days, and an additional penalty of "5 percent for each additional 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of 25 percent," and states that "the commission shall collect the fee and penalty, plus interest and all costs of collection, from the regulated company." Further, Rule 25-30.120(7)(b), F.A.C., provides that, in addition to statutory penalties and interest, the Commission may impose an additional penalty upon a utility for failing to pay RAFs timely, pursuant to Section 367.161, F.S.

Facts

Commission records indicate that Kincaid failed to submit RAFs for the years 2008, 2009, 2012, 2013, and 2016.¹ Kincaid has a long history of failing to submit RAFs, and has had two enforcement proceedings brought by the Commission in 2004 and 2007 for failing to submit RAFs.² In fact, since coming under the Commission's jurisdiction in 1993, Kincaid has only

¹ Kincaid submitted its 2010 and 2011 RAFs, plus penalty and interest, on November 14, 2014, as part of on-going compliance/settlement negotiations with Commission staff.

² Docket No. 040248-WU, *In Re: Initiation of show cause proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities*; and Docket No. 070580-WU, *In Re: Initiation of Show Cause Proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports; Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities; and of Order PSC-04-0615-FOF-WU*.

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submitted RAFs timely two times (2014 and 2015).³ Despite the numerous attempts by the Commission and staff over the last 13 years to work with Kincaid to resolve its RAF compliance issues, Kincaid has repeatedly failed to comply with its statutory and regulatory obligations.

In 2004, after failing to submit RAFs for the years 1995 through 2003, the Commission initiated an enforcement proceeding against Kincaid for violations of Section 350.113, F.S., and Rule 25-30.120, F.A.C., (2004 Proceeding).⁴ In an effort to work with Kincaid to resolve its non-compliance issues, the Commission declined to show cause or assess fines against Kincaid for failing to submit RAFs.⁵ Instead, the Commission approved a payment plan submitted by Kincaid to pay the RAFs, plus statutory penalty and interest, that it owed for the years 1995 to 2003.⁶ In addition, Kincaid was put on notice that failure to timely submit RAFs in the future or comply with any Commission Orders, would result in further enforcement action by the Commission.

Kincaid again failed to submit RAFs the year after the 2004 Proceeding, as well as the following two years. Kincaid made several payments toward the RAF amounts owed pursuant to the payment plan approved by Order No. PSC-04-0615-FOF-WU between June 2004 and January 2006, then ceased submitting payments.⁷ After failing to submit RAFs for 2004, 2005, and 2006, failing to submit payments pursuant to the approved payment plan, and failing to respond to staff's attempts to collect the amounts owed, the Commission initiated another enforcement proceeding against Kincaid in 2007 for violations of Section 350.113, F.S., Rule 25-30.120, F.A.C., and Order No. PSC-04-0615-FOF-WU (2007 Proceeding).⁸

At the time the Commission initiated the 2007 Proceeding, Kincaid had serious compliance issues with the Florida Department of Environmental Protection (DEP), as well as the United States Environmental Protection Agency (EPA). Despite finding "a continued pattern of disregard for the directions, orders, and rules of this Commission," and "for the timely payment of RAFs," the Commission again declined to show cause Kincaid, finding "exigent and mitigating circumstances" existed.⁹ At that time, the Commission reasoned that assessing additional penalties and requiring Kincaid to pay its delinquent RAFs would only further impair Kincaid's financial viability and its ability to address the DEP and EPA compliance issues.¹⁰ Therefore, the Commission ordered that the outstanding RAFs amounts, including penalty and interest, owed by Kincaid for the years 1995 through 2006, be submitted to the Florida Department of Financial Services (DFS) to be written-off as

³ Kincaid submitted its 2007 RAFs three days late and paid the associated penalty and interest.

⁴ Docket No. 040248-WU.

⁵ Order No. PSC-04-0615-FOF-WU, issued June 21, 2004, in Docket No. 040248-WU.

⁶ The Commission found the total amount of delinquent RAFs, penalty and interest, owed by Kincaid for years 1995-2003, to be \$29,231.42. Order No. PSC-04-0615-FOF-WU.

⁷ Between June 2004 and January 2006, Kincaid submitted \$12,000.00 of the total \$29,231.42 owed. \$10,903.86 was applied to past due RAF principals and \$1,096.14 to penalty and interest, which paid the entire RAF principal amounts owed for the years 1995 through 1999, and \$1,410.92 of the \$1,808.33 RAF principal owed for the year 2000.

⁸ Docket No. 070580-WU.

⁹ Order No. PSC-08-044-FOF-WU, issued January 22, 2008, in Docket No. 070580-WU, pages 9 and 11.

¹⁰ The Commission noted that "further collection efforts may cause the utility to abandon the system or cause it to be unable to make necessary repairs or maintain the safe provision of quality water to the customers of Kincaid." *Id.*, at pages 10 and 12.

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“uncollectible.”¹¹ In addition, the Commission found Kincaid eligible for a Staff-Assisted Rate Case (SARC). Finally, the Commission ordered that the 2007 Proceeding remain open until Kincaid filed its SARC application, and that staff was to bring a recommendation to the Commission should Kincaid fail to timely submit RAFs during the pendency of its SARC.¹²

In April 2008, Kincaid notified Commission staff that it would not pursue a SARC due to customer dissatisfaction expressed after Kincaid implemented recent rate increases.¹³ Between June 2007 and April 2008, Kincaid received two price-index increases, and a 4.5% pass-through increase, which would allow Kincaid to recover RAFs in its rates going forward. With the recent increases, Kincaid stated it could meet its obligations to pay RAFs and maintain Kincaid without a SARC.¹⁴ By Order No. PSC-08-0386-FOF-WU, the Commission ordered the 2007 Proceeding closed based on Kincaid submitting its 2007 RAFs¹⁵ and receiving the index and pass-through increases.¹⁶

The year following the closure of the 2007 Proceeding, Kincaid again failed to submit its RAFs for 2008, as well as for the years 2009, 2010, 2011, 2012, and 2013. Kincaid also failed to respond to staff's repeated attempts to contact Kincaid by telephone, mail, and email. (*Exhibit A – Commission Staff Correspondence re: Kincaid Delinquent RAFs and Annual Reports.*) In June 2014, Kincaid's owner, Mr. Berdell Knowles, Sr., finally responded to staff regarding Kincaid's outstanding RAFs and payment options. Mr. Knowles, Sr. agreed to submit Kincaid's outstanding annual reports and RAF returns, along with an initial RAF payment by June 30, 2014.¹⁷ In addition, Mr. Knowles, Sr. was advised that the Commission would pursue further compliance action if Kincaid did not comply with a RAF payment plan.¹⁸ Mr. Knowles, Sr. failed to submit Kincaid's 2008-2013 RAF returns or an initial RAF payment by June 30, 2014, as agreed and, again, failed to respond to staff's attempts to contact Kincaid.

Due to staff's continued inability to contact Mr. Knowles, Sr., staff contacted the DEP attorney assigned to Kincaid's compliance issues in October 2014, and obtained the contact information for Berdell Knowles, Jr., a corporate officer of Kincaid. (*Exhibit B – Kincaid Florida Corporate Information.*) On October 20, 2014, staff counsel spoke with Mr. Knowles, Jr. regarding Kincaid's delinquent RAF and annual report status, the lack of cooperation by Mr. Knowles, Sr. to engage in discussions with staff, and Kincaid's current corporate and financial status. On October 23, 2014, staff held a conference call with Mr. Knowles, Jr., wherein Mr. Knowles, Jr. agreed to an initial compliance action plan to resolve Kincaid's compliance issues. (*Exhibit C – Commission Staff Correspondence re: Kincaid Compliance Plan.*) Mr. Knowles, Jr. agreed to submit all of Kincaid's delinquent annual reports for years 2009-2013, as well as the RAF amounts owed for the years 2010 and 2011, plus penalty and interest, by November 7,

¹¹ Total amount to be written-off was \$24,166.29. *Id.*, at pages 10 and 12.

¹² *Id.*, at page 14.

¹³ Document No. 04657-08, filed in Docket No. 070580-WU.

¹⁴ Order No. PSC-08-0386-FOF-WU, issued June 10, 2008, in Docket No. 070580-WU, page 2.

¹⁵ Kincaid submitted its 2007 RAFs three days late and, thus assessed an additional \$139.05, for statutory penalty and interest that accrued. Kincaid submitted the \$139.05 penalty on May 1, 2008.

¹⁶ Order No. PSC-08-0386-FOF-WU.

¹⁷ See, *Exhibit A* (Staff Email, dated June 17, 2014, RE: Kincaid Hills Water Company WU690 – First Collections Delinquent RAFs.)

¹⁸ *Id.*

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2014.¹⁹ As part of the initial compliance plan, Kincaid also agreed to continue working with staff regarding payment of the remaining RAF amounts owed, to consider pursuing a SARC, and to submit future RAFs timely.²⁰

On November 14, 2014, the Commission received Kincaid's payment in the amount of \$8,690.15, which satisfied the outstanding RAF amounts owed by Kincaid for 2010 and 2011.²¹ On February 16, 2015, staff held a conference call with Kincaid (included both Mr. Knowles, Sr. and Mr. Knowles, Jr.), wherein Kincaid agreed to resolve its compliance issues, including continuing to negotiate payment options for its past due RAFs, to submit future RAFs and annual reports timely, to pursue a SARC, and to update its corporate status with the Florida Secretary of State.²² Since submitting the \$8,690.15 payment, however, Kincaid has failed to meet the requirements of the initial compliance plan as agreed. Specifically, Kincaid has failed: (1) to submit additional payments toward its remaining years of delinquent RAFs; (2) to continue to work with staff regarding repayment of its remain years of delinquent RAFs; (3) to update its corporate status with the Florida Secretary of State Division of Corporations; (4) to apply for a SARC; and (5) to submit its 2016 RAFs.²³ Because Kincaid failed to submit its 2008, 2009, 2012, 2013, and 2016 RAFs timely, statutory penalties and interest are also due.

The total amount owed by Kincaid for 2008, 2009, 2012, 2013, and 2016 RAFs, plus associated penalties and interest, calculated through August 31, 2017, is **\$22,139.39**. A breakdown of the amount is shown in the table below.

YEAR ²⁴	REVENUES	RAFS (4.5%)	PENALTY (5% up to 25%)	INTEREST (1% through 08/31/17)	PAYMENTS	TOTAL DUE
2016	\$44,593.00	\$2,006.69	\$501.67	\$120.40	\$0.00	\$2,628.76
2013	\$49,756.00	\$2,239.02	\$559.76	\$940.39	\$0.00	\$3,739.17
2012	\$58,535.00	\$2,634.08	\$658.52	\$1,422.40	\$0.00	\$4,715.00
2009	\$60,274.00	\$2,712.33	\$678.08	\$2,468.22	\$0.00	\$5,858.63
2008	\$50,661.00	\$2,279.75	\$569.94	\$2,348.14	\$0.00	\$5,197.83
TOTALS	\$381,584.00	\$17,171.30	\$4,292.83	\$9,365.41	\$8,690.15	\$22,139.39

¹⁹ See, Exhibit C (Staff Emails with Mr. Knowles, Jr., RE: Kincaid Hills – Initial Compliance Plan.)

²⁰ *Id.*

²¹ The payment was postmarked November 7, 2014. The payment breakdown was as follow: \$4,491.55 (2010 RAFs \$2,642.09 + Penalty \$660.52 + Interest \$1,188.94); and \$4,198.60 (2011 RAFs \$2657.34 + Penalty \$664.34 + Interest \$876.92)

²² See, Exhibit C (Staff Emails with Mr. Knowles, Jr., RE: Kincaid Hills – Rate Case & RAFs.)

²³ See, Exhibits B and C.

²⁴ Kincaid timely submitted its 2014 and 2015 RAFs.

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Corrective Action Required

Payment in the amount of \$22,139.39 for the RAFs, penalties and interest, owed by Kincaid for the years 2008, 2009, 2012, 2013, and 2016, is due immediately. If payment is not received in full by August 31, 2017, Commission staff will open an enforcement docket to initiate a show cause proceeding against Kincaid. Should Kincaid ultimately be found in violation of Commission statutes, rules, or orders, the Commission may impose fines of up to \$5,000 per violation, for each day the violation continues, including levying a statutory lien upon the real and personal property of the Utility, or the Commission may amend, suspend, or revoke Kincaid's certificate, pursuant to Section 367.161, F.S.

B. Annual Reports

Legal Authority

Section 367.121(1)(c) and (i), F.S., authorizes the Commission to require utilities subject to its jurisdiction to file such regular financial reports it deems necessary. Rule 25-30.110(3)(a), F.A.C., provides that each utility under the jurisdiction of the Commission shall file an annual report on or before March 31st, for the preceding year ending December 31. The standard penalty for delinquent annual reports is \$3 per day, pursuant to Rule 25-30.110(7), F.A.C.

Facts

A review of Commission records indicates that Kincaid has repeatedly failed to submit its annual reports. Since coming under Commission jurisdiction in 1993, Kincaid has only submitted five annual reports on time (1997, 2007, 2014, 2015, 2016).²⁵ After failing to submit its annual reports for 1994 through 1996, an enforcement proceeding was initiated against Kincaid for violations of Rule 30.110, F.A.C. (1997 Proceeding), and Kincaid was ordered to show cause why it should not be penalized \$2,628 for failing to submit its annual reports.²⁶ Kincaid failed to respond to the Commission's Order, resulting in the annual report penalties being assessed by the Commission.²⁷ After several failed attempts by Commission staff to contact Kincaid to collect the annual report penalty, the Commission submitted the penalty to the Department of Financial Services to be written-off as "uncollectable."²⁸

Following the 1997 Proceeding, Kincaid timely submitted its 1997 annual report. Between 1998 and 2003, however, Kincaid again failed to submit its annual reports. Therefore, another enforcement proceeding was brought against Kincaid in 2004 for failing to submit Annual Reports for the years 1998 through 2003, pursuant to Rule 25-30.110, F.A.C. (2004

²⁵ Kincaid's 2008 annual report was received 22 days late, on April 22, 2009.

²⁶ Order No. PSC-98-0737-SC-WU, issued on May 28, 1998, in Docket No. 971623-WU, *In Re: Initiation of show cause proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports.*

²⁷ See, Docket No. 971623-WU.

²⁸ *Id.*

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Proceeding).²⁹ Because Kincaid made an effort to cooperate with Commission staff and submitted all of the delinquent annual reports for 1998-2003, the Commission declined to show cause or assess Kincaid annual report penalties pursuant to Rule 25-30.110, F.A.C.³⁰ Kincaid was put on notice, however, that failure to timely submit annual reports in the future or comply with Commission orders, would result in further enforcement action by the Commission.

The year after the 2004 Proceeding, Kincaid again failed to submit its annual report. After failing to submit annual reports for the years 2004 through 2006, the Commission initiated a third enforcement proceeding against Kincaid for violations of Rule 25-30.110, F.A.C. (2007 Proceeding).³¹ As stated above, Kincaid had serious compliance issues with DEP and the EPA at the time of the 2007 Proceeding. The Commission again declined to show cause Kincaid and to assess the annual report penalties, finding the DEP and EPA compliance issues, Kincaid's financial status to be mitigating circumstances.³² The Commission reasoned that assessing annual report penalties would only further impair Kincaid's financial viability and its ability to address its compliance issues with DEP and the EPA.³³ Kincaid was put on notice, however, that "failure to timely file future annual reports will subject it to the penalties authorized by Rule 25-30.110(7), F.A.C., and to show cause proceedings and fines of up to \$5,000 per day per violation for each day the violation continues, as set forth in Section 367.161, F.S., or revocation proceedings pursuant to Section 367.161(2), F.S."³⁴

Kincaid again failed to submit its annual reports for the years 2009, 2010, 2011, 2012, and 2013.³⁵ Kincaid also failed to respond to staff's repeated attempts to contact Kincaid. In June 2014, Kincaid owner, Mr. Knowles, Sr., finally responded to staff regarding its outstanding annual reports and RAFs. (*Exhibit A – Commission Staff Correspondence re: Kincaid Delinquent RAFs and Annual Reports.*) Mr. Knowles, Sr. agreed to submit Kincaid's outstanding annual reports and RAF returns, along with an initial RAF payment by June 30, 2014.³⁶ Mr. Knowles, Sr. did not submit Kincaid's 2009-2013 annual reports by June 30, 2014, as agreed and, again, failed to respond to staff's attempts to contact Kincaid.

²⁹ Docket No. 040248-WU, *In Re: Initiation of show cause proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities.*

³⁰ Order No. PSC-04-0615-FOF-WU, issued June 21, 2004, in Docket No. 040248-WU.

³¹ Docket No. 070580-WU, *In Re: Initiation of Show Cause Proceedings against Kincaid Hills Water Company in Alachua County for violation of Rule 25-30.110, F.A.C., Records and Reports; Annual Reports; Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities; and of Order PSC-04-0615-FOF-WU.*

³² Order No. PSC-08-044-FOF-WU, issued January 22, 2008, in Docket No. 070580-WU, pages 9 and 13.

³³ The Commission noted that, "in the last five months, the utility has worked diligently to pay off the 2004-2006 RAFs and has now filed all of its annual reports. Because of its financial problems and the need for maintenance, the utility has had problems with timely filing its annual reports and could not afford an accountant to assist it in such filing." *Id.*, at page 13.

³⁴ *Id.*

³⁵ Kincaid's 2008 annual report was received 22 days late, on April 22, 2009.

³⁶ See, *Exhibit A* (Staff Email, dated June 17, 2014, RE: Kincaid Hills Water Company WU690 – First Collections Delinquent RAFs.)

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Due to staff's continued inability to contact Mr. Knowles, Sr., staff contacted the DEP attorney assigned to Kincaid's compliance issues in October 2014, and obtained the contact information for Berdell Knowles, Jr., a Kincaid corporate officer. (*Exhibit B – Kincaid Florida Corporate Information*.) On October 20, 2014, staff counsel spoke with Mr. Knowles, Jr., regarding Kincaid's delinquent RAF and annual report status, the lack of cooperation by Mr. Knowles, Sr. to engage in discussions with staff, and Kincaid's current financial status. On October 23, 2014, staff held a conference call with Mr. Knowles, Jr., wherein Mr. Knowles, Jr. agreed to an initial compliance action plan to resolve Kincaid's compliance. (*Exhibit C – Commission Staff Correspondence re: Kincaid Compliance Plan*.) As part of the initial compliance plan, Mr. Knowles, Jr. agreed to submit all of Kincaid's delinquent annual reports for years 2009-2013, as well as to continue working with staff regarding payment of the remaining RAF amounts owed, to pursuing a SARC, and to submitting future annual reports timely.³⁷

On November 20, 2014, the Commission received Kincaid's annual reports for 2009-2013.³⁸ On February 16, 2015, staff held a conference call with Kincaid (included both Mr. Knowles, Sr. and Mr. Knowles, Jr.), wherein the Kincaid agreed to work to resolve its compliance issues, including continuing to negotiate payment options for its past due RAFs, to submit future annual reports and RAFs timely, to pursue a SARC, and to update its corporate status with the Florida Secretary of State.³⁹ Although Kincaid submitted its 2014, 2015, and 2016, annual reports timely, Kincaid has failed to meet the other requirements of the initial compliance plan.⁴⁰

Therefore, the total penalty amount owed by Kincaid for failing to timely submit its annual reports for the years 2009 to 2013 is \$14,457.00. A breakdown of the amount is show in the table below.

YEAR	DATE DUE	DATE SUBMITTED	DAYS LATE (as of 11/20/14)	PENALTY (\$3 per day)
2013	03/31/2014	11/20/2014	234	\$702.00
2012	04/01/2013	11/20/2014	598	\$1,794.00
2011	04/02/2012	11/20/2014	962	\$2,886.00
2010	03/31/2011	11/20/2014	1,330	\$3,990.00
2009	03/31/2010	11/20/2014	1,695	\$5,085.00
TOTAL			4,819	\$14,457.00

³⁷ See, *Exhibit C* (Staff Emails with Mr. Knowles, Jr., RE: Kincaid Hills – Initial Compliance Plan.)

³⁸ Kincaid emailed its 2009-2013 annual reports to staff on November 7, 2014; however, Rule 25-30.110, F.A.C., requires reports be certified and submitted to the Commission in paper form. Commission received annual reports on November 20, 2014. See, *Exhibit C* (Staff Emails with Mr. Knowles, Jr., RE: Kincaid Hills - Received Delinquent Annual Reports & 2010-11 RAF Payment; and Staff Emails with Mr. Knowles, Jr., RE: Kincaid Hills - Annual Reports Insufficient.)

³⁹ See, *Exhibit C* (Staff Emails with Mr. Knowles, Jr., RE: Kincaid Hills – Rate Case & RAFs.)

⁴⁰ See, *Exhibits B and C*.

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Corrective Action Required

Payment in the amount of \$14,457.00 for the annual report penalties owed by Kincaid for the years 2009, 2010, 2011, 2012, and 2013, is due immediately. If payment in full is not received by August 31, 2017, Commission staff will open an enforcement docket to initiate a show cause proceeding against Kincaid. Should Kincaid be ultimately found in violation of Commission statutes, rules, or orders, the Commission may impose fines of up to \$5,000 per violation, for each day the violation continues, including levying a statutory lien upon the real and personal property of the Utility, or the Commission may amend, suspend, or revoke Kincaid's certificate, pursuant to Section 367.161, F.S.

C. Customer Complaints

Legal Authority

Rule 25-30.330, F.A.C., requires that a utility provide its customers, at least an annual basis, with its telephone numbers for regular and after hours, as well as other information and assistance, when requested by the customer, as reasonably may be necessary to ensure that the customer receives safe, efficient service. Rule 25-30.355, F.A.C., requires that a utility make a full and prompt acknowledgment and investigation of all customer complaints and respond fully and promptly to all customer requests. Finally, Rule 25-22.032(6)(b), F.A.C., requires that a utility respond to a customer complaint received by the Commission by contacting the customer within 15 working days after receiving the complaint from Commission staff and provide a written response to the complaint to Commission staff.

Facts

A review of Commission records also shows that Kincaid is not timely responding to customer complaints. The Commission's Consumer Activity Tracking System (CATS) shows several customer complaints in which Kincaid has failed to respond to either the customer or the Commission. Staff has compiled a list of customer complaints currently open with the Commission, along with a copy of each of the CATS complaint records for your review. (*Exhibit D – Open CATS Customer Complaints*.) The complaints show that customers reported regularly experiencing difficulty in reaching a Utility representative and reported Kincaid's telephone number being out-of-service on occasions. Commission staff has not been able to reach Kincaid regarding the customer complaints.⁴¹ Furthermore, Kincaid has failed to respond to Commission staff's repeated attempts to contact Kincaid by telephone, mail, and e-mail in order to resolve the complaints.⁴²

Corrective Action Required

Kincaid must respond immediately to each of the customers listed in Exhibit D to resolve the complaints. In addition, Kincaid must provide Commission staff with a written response to

⁴¹ See, *Exhibit D*.

⁴² *Id.*

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Page 10

each of the customer complaints listed in Exhibit D, and include whether or not the complaint has been resolved and how the complaint was resolved. If Kincaid has not responded to all of the customers in Exhibit D and provided a written response to Commission staff on each complaint by August 31, 2017, Commission staff will open an enforcement docket to initiate a show cause proceeding against Kincaid. Should Kincaid ultimately be found in violation of Commission statutes, rules, or orders, the Commission may impose fines of up to \$5,000 for each day the violation continues, including levying a statutory lien upon the real and personal property of the Utility, or amend, suspend, or revoke Kincaid's certificate, pursuant to Section 367.161, F.S.

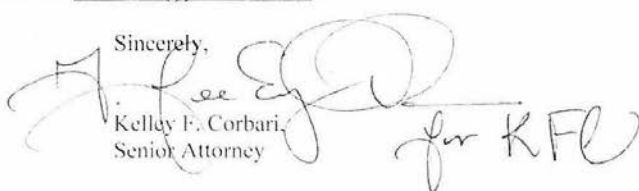
Conclusion

To summarize, as of August 31, 2017, the total amount owed by Kincaid for past due RAFs, plus penalties and interest owed for the years 2008, 2009, 2012, 2013, and 2016, is \$22,139.39, and the total amount owed for penalties for late-filed annual reports or the years 2008 to 2013 is \$14,457.00, for a combined total amount due of \$36,596.39. **Payment in the amount of \$36,596.39, and written responses to the customer complaints attached must be received by the Commission by August 31, 2017.** If full payment and written responses to the complaints are not received by August 31, 2017, Commission staff will open an enforcement docket to initiate a show cause proceeding against Kincaid. Should Kincaid ultimately be found in violation of Commission statutes, rules, or orders, the Commission may impose fines of up to \$5,000 per violation, for each day each violation continues, including levying a statutory lien upon the real and personal property of the Utility, or the Commission may amend, suspend, or revoke Kincaid's certificate, pursuant to Section 367.161, F.S. If necessary, the Commission may also seek injunctive or other appropriate relief in circuit court to compel Kincaid's compliance pursuant to Section 367.121, F.S.

Finally, please note that any enforcement proceeding opened by the Commission against Kincaid will only place further demands upon the management of the Utility. Therefore, your prompt attention to this matter is required.

Should you have questions or comments regarding the matters discussed herein, you may contact me at (850) 413-6234 or KCorbari@psc.state.fl.us.

Sincerely,


 Kelley F. Corbari
 Senior Attorney

KFC/rt
 Enclosures

cc: Office of Public Counsel (J.R. Kelly)
 Deputy Executive Director, Technical (Futrell)
 Division of Accounting & Finance (Mouring, Fletcher, Bulecza-Banks, Maurey)
 Division of Economics (McCoy, McNulty, Schafer)
 Division of Consumer Assistance & Outreach (Hicks)
 Office of the General Counsel (Tan, Helton, Hetrick)
 Office of Commission Clerk (Docket No. 20170000-OT)

**Kincaid Hills Water Company
Open Customer Complaints
2016-2017**

1. **PSC Complaint No. 1242714W** Date: 05/08/2017
Customer: Paul Cohen
Complaint Subject: Improper Billing
Complaint Sent to Utility: 05/10/2017
Utility Response Due: 05/30/2017
Utility Response: None
Second Notice to Utility: 05/31/2017 (*via certified mail – received 06/03/2017*)
Utility Response: None

2. **PSC Complaint No. 1240114W** Date: 03/30/2017
Customer: Katherine Stemmler
Complaint Subject: Unable to Reach Utility
Complaint Sent to Utility: 03/30/2017
Utility Response Due: 04/20/2017
Utility Response: None
Second Notice to Utility: 05/10/2017 (*via regular mail*)
Utility Response: None
Third Notice to Utility: 05/31/2017 (*via certified mail – received 06/03/2017*)
Utility Response: None

3. **PSC Complaint No. 1225168W** Date: 10/13/2016
Customer: Bruce Doyle
Complaint Subject: Unable to Reach Utility – Contact Number Not Working
Complaint Sent to Utility: 10/13/2016
Utility Response Due: 11/03/2016
Utility Response: None
Late Notice Sent to Utility: 11/23/2016
Utility Response: None
Attempt to Contact Utility by Telephone: 12/07/2016 (*unsuccessful*)
Third Notice to Utility: 12/08/2016 (*via e-mail*)
Utility Response: None
Attempt to Contact Utility by Telephone: 03/01/2017 (*left message*)
Utility Response: 03/02/2017 (*Utility to contact customer 03/06/2017*)
Attempt to Contact Utility by Telephone: 05/08/2017
Utility Response: None
Fourth Notice to Utility: 05/10/2017 (*via regular mail*)
Utility Response: None
Fifth Notice to Utility: 05/31/2017 (*via certified mail – received 06/03/2017*)
Utility Response: None

NOTICE OF NONCOMPLIANCE
Kincaid Hills Water Company (WU690)

EXHIBIT A

Commission Staff Correspondence

RE: Kincaid Delinquent RAFs and Annual Reports

Kelley Corbari



From: Berdell Knowles, Jr. <berdell@alum.mit.edu>
Sent: Monday, June 12, 2017 9:50 AM
To: Toni McCoy; berdell@alum.mit.edu
Cc: Kelley Corbari
Subject: RE: 2016 RAF Delinquency - Please saee attached RAF return for 2016 and Delinquent letter mailed...

Thanks for alerting me to this. I will contact Berdell Sr. to get a response right now.

From: Toni McCoy [mailto:TMcCoy@PSC.STATE.FL.US]
Sent: Monday, June 12, 2017 6:26 AM
To: 'berdell@alum.mit.edu' <berdell@alum.mit.edu>
Cc: Kelley Corbari <KCorbari@psc.state.fl.us>
Subject: 2016 RAF Delinquency - Please saee attached RAF return for 2016 and Delinquent letter mailed...
Importance: High

Will you be paying the 2016 RAF this week?

— Utility Information —

This account is Delinquent.

Utility Mailing Name:	Kincaid Hills Water Company	Complete Name:	Kincaid Hills Water Cor
Street1:	P. O. Box 15016	Street2:	
State:	FL	Zip:	32604-5016
Federal Id:	59-2221952	Certificate #:	555W
Bankruptcy Start Date:			
Utility Status Code:	REGULATED	Utility Status Date:	7/13/1993

— RAF Account Information —

Raf Periods:	1/1/2016 - 12/31/2016		Correspondence Suspended	
RAF Period Covered:	1/1/2016 - 12/31/2016		Check Received	On Payment Plan <input type="checkbox"/>
Service:	WAT		<input type="checkbox"/> Confidential	Raf Form Withdrawn
Current RAF Status:	Interest & Penalty updated by nightly job		Send Collection	Collection Date:
Raf Transactions:			RAF Form Received	
Operating Revenue:	44,451.00		Amended Return	<input type="checkbox"/> Don't calculate Penal
Gross Interstate Revenue:	0.00		RAF Account Satisfied	
RAF Rate:	0.045		RAF Due Date:	3/31/2017

— Estimated Assessments —

	Due	Paid	WriteOff	Refund	E
RAF	2,000.29	0.00			
Penalty	300.03	0.00			
Interest	60.00	0.00			
Extension	0.00	0.00			
Total	2,360.32	0.00			

05111A02

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>1. Complete Forms 1, 2, and 3. Also complete Part 4 if Restricted Delivery is checked.</p> <p>2. Print your name and address on the reverse so that we can return the card to you.</p> <p>3. Attach this card to the back of the mail piece.</p> <p>4. On the front of each envelope, write:</p>		<p>A. Signature <i>[Signature]</i></p> <p>B. Registered Mail <input checked="" type="checkbox"/> <i>151377</i></p> <p>C. Restricted Delivery <input checked="" type="checkbox"/> <i>151377</i></p> <p>D. If delivery address differs from item 1, list it here. If not, check <input type="checkbox"/> No.</p>	
<p>5. Return address to:</p> <p>WUE90-16-W-0-D Kincaid Hills Water Company P. O. Box 15016 Gainesville, FL 32604-5016</p>		<p>6. Service type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered Mail <input checked="" type="checkbox"/> Return Receipt</p> <p><input type="checkbox"/> Restricted Delivery (Extra Fee) <input type="checkbox"/> No</p>	

7025 1160 0003 6741 2014

PS Form 3811, February 2004

7025 1160 0003 6741 2014


U.S. MAILS MAIL CERTIFIED MAIL RECEIPT

(Domestic Mail Only - International Certified Mail)

For delivery information, visit our website at www.usps.com

Postage	1.40
Collection Fee	0.00
Postage & Collection Fee	1.40
Postage & Collection Fee	1.40
Postage & Collection Fee	1.40

WUE90-16-W-0-D
Kincaid Hills Water Company
P. O. Box 15016
Gainesville, FL 32604-5016

<p>Toni Joy McCoy <i>Public Utility Analyst Division of Economics</i></p> <p>Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 Tel : (850) 413-6532 Fax: (850) 413-6733 E-mail: TMcCoy@psc.state.fl.us</p>	 <p>FLORIDA PUBLIC SERVICE COMMISSION STATE OF FLORIDA</p>
---	---

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.

COMMISSIONERS:
JULIE IMANUEL BROWN,
CHAIRMAN
ART GRAHAM
RONALD A. BRISE
JIMMY PATRONIS
DONALD J. POLMANN

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 21, 2017

WU690-16-W-0-D
Kincaid Hills Water Company
P. O. Box 15016
Gainesville, FL 32604-5016

Dear Certificate Holder:

The Division of Administrative Services has forwarded your account to our office to address the nonpayment of the Regulatory Assessment Fees (RAFs) required by Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code (F.A.C.), for the year 2016, which was due March 31, 2017. The RAF return form was mailed to you on February 14, 2017, and to date, Commission records reflect that payment has not been received.

According to Florida Law, you are required to add interest charges at 12% per annum, and a 5% penalty for each 30-day period or fraction thereof, beyond the due date, up to a maximum of 25% in addition to the delinquent amount due. In addition, pursuant to Section 367.161, Florida Statutes, the commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$5,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 367.

Utilities are charged with knowledge of our rules and statutes. All utilities that apply for a Water certificate would have received a copy of all applicable rules, in accordance with Section 367, Florida Statutes, as part of the application process. Utilities also provided an affidavit indicating that they have read and understood the applicable rules.

If you wish to request another form, please contact Toni McCoy at the number below. The payment should be identified with the company code and the company's name. Failure to provide payment within 15 days of this notice will result in the establishment of a docket to address your failure to return the RAFs form and pay RAFs in accordance with Section 367.145, Florida Statutes, and rule 25-30.120, F.A.C. The Commission may impose a fine, cancel your certificate, or place a lien on your property. Therefore, it is important that you address this matter now.

If you have paid your fees, please provide us with your check number and the date that it was paid.

Should you have any questions concerning this letter please contact Toni McCoy at (850) 413-6532 or via Internet e-mail at tmccoy@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink that reads "Keith C. Hetrick".

Keith C. Hetrick
General Counsel

cc: Fiscal Services Section

07-11-17

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <i>Brent Kern</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to: WU690-16-W-0-D Kincaid Hills Water Company P. O. Box 15016 Gainesville, FL 32604-5016	B. Received by (Printed Name) <i>Brent Kern</i> C. Date of Delivery <i>5/13/17</i>
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No
	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes

7005 1160 0003 8791 2219

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-14-1540

7005 1160 0003 8791 2219

US Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only, No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
Postage	\$ 47
Certified Fee	3.35
Return Receipt Fee (Endorsement Required)	2.75
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.57

Postmark
APR 21 2017

WU690-16-W-0-D
Kincaid Hills Water Company
P. O. Box 15016
Gainesville, FL 32604-5016

Kelley Corbari

From: Tashner, Janet <Janet.Tashner@dep.state.fl.us>
Sent: Tuesday, October 14, 2014 2:47 PM
To: Kelley Corbari
Subject: FW: Kincaid Hills Water Company

Importance: High

Hi Kelley,

See Mr. Berdell's email below. Please let me know if there is anything else I can do.

Janet

Janet Tashner
Senior Assistant General Counsel

From: Berdell Knowles, Jr. [<mailto:berdell@alum.mit.edu>]
Sent: Tuesday, October 14, 2014 2:43 PM
To: Tashner, Janet
Subject: RE: Kincaid Hills Water Company
Importance: High

Hi, Janet...

Good to hear from you. I have not heard from anyone at the PSC, so thank you for bringing this to my attention. Would you mind referring her to me directly? She can reach me via email, or via telephone at (310) 821-1235.

From: Tashner, Janet [<mailto:Janet.Tashner@dep.state.fl.us>]
Sent: Tuesday, October 14, 2014 10:54 AM
To: berdell@alum.mit.edu
Subject: FW: Kincaid Hills Water Company

Hi Berdell,

I just wanted to let you know that Kelley Corbari from the Public Service Commission contacted me via the email below to determine the status of the Kincaid Hills facility. My understanding is that there are several reporting violation with the Commission that Ms. Corbari is attempting to resolve.

Janet

Janet Tashner
Senior Assistant General Counsel

From: Kelley Corbari [<mailto:KCorbari@psc.state.fl.us>]
Sent: Monday, October 13, 2014 4:57 PM
To: Tashner, Janet
Subject: Kincaid Hills Water Company

Hi Janet,

My name is Kelley and I have been assigned to look into some compliance issues at the PSC involving Kincaid Hills Water Company. I understand that Kincaid has had compliance issues with DEP as well. I was given your name by one of our engineers (Stan Rieger), who informed me that you handled the recent matter with Kincaid.

I would like to talk to you, if you have a few minutes tomorrow, to discuss Kincaid's compliance history and current status with DEP. I can be reached at 413-6234.

I look forward to speaking with you.

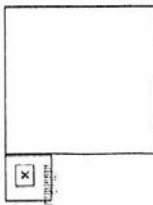
Sincerely,
Kelley

Kelley F. Corbari,

Senior Attorney - Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.



Valorie Moore

From: Toni Earnhart
Sent: Tuesday, June 17, 2014 2:05 PM
To: Valorie Moore; Karen Belcher
Subject: Kincaid Hills Water Company WU690 - First Collections Delinquent RAF
Importance: High

Mr. Knowles contacted me and requested a RAF payment plan be established.

He has agreed to submit Annual Reports from 2009-2013 and RAF returns from 2008-2013 with an initial RAF payment by June 30, 2014.

A Billing Audit has been requested and assigned to Debra Dobiak, Commission Staff.

Mr. Knowles is aware that the Commission plans to pursue further compliance actions should Kincaid not comply with a RAF payment plan.

Please do not send Kincaid's RAF account to Collections until further notice.

<u>59-2221952</u>	WU690	WAT	01/01/2012-12/31/2012					
\$ 50,661.00	\$ 2,279.75	\$ 0.00	\$ 2,279.75	\$ 569.94	\$ 0.00	\$ 569.94	\$ 341.96	\$ 0.00

*Toni Joy Earnhart, Public Utility Analyst
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399
Phone 850-413-6532
Fax 850-413-6533*

COMMISSIONERS:
ART GRAHAM, CHAIRMAN
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE IMANUEL BROWN

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
S. CURTIS KISER
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 21, 2014

WU690-13-W-0-D
Kincaid Hills Water Company
P. O. Box 15016
Gainesville, FL 32604-5016

Dear Certificate Holder:

The Division of Administrative Services has forwarded your account to our office to address the nonpayment of the Regulatory Assessment Fees (RAFs) required by Section 366.14, Florida Statutes, and Rule 25-6.0131, Florida Administrative Code, for the year 2014, which was due March 31, 2014. The RAFs return form was mailed to you on February 14, 2014, and to date, Commission records reflect that payment has not been received.

According to Florida Law, you are required to add interest charges at 12% per annum, and a 5% penalty for each 30-day period or fraction thereof, beyond the due date, up to a maximum of 25% in addition to the delinquent amount due. In addition, pursuant to Section 366.095, Florida Statutes, the commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$5,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 366.

Utilities are charged with knowledge of our rules and statutes. Moreover, it is general Commission practice that all utilities that apply for Water certificate receive a copy of all applicable rules. Further, in accordance with Section 367, Florida Statutes, as part of the application process, utilities provide an affidavit indicating that they have read and understood the applicable rules.

If you wish to request another form, please contact Toni Earnhart at the number below. The payment should be identified with the company code and the company's name. Failure to provide payment within 15 days of this notice will result in the establishment of a docket to address your failure to return the RAFs form and pay RAFs in accordance with Section 367.145, Florida Statutes. The Commission may impose a fine, cancel your certificate, or place a lien on your property. Therefore, it is important that you address this matter now.

If you have paid your fees, please provide us with your check number and the date that it was paid.

Should you have any questions concerning this letter please contact Toni Earnhart at (850) 413-6532 or via Internet e-mail at tearnhar@psc.state.fl.us.

Sincerely,

A handwritten signature in cursive script that reads "S. Curtis Kiser".

S. Curtis Kiser
Office of the General Counsel

cc: Fiscal Services Section

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

PSC Website: <http://www.floridapsc.com>

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Internet E-mail: contact@psc.state.fl.us

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

7005 1160 0003 8791 0246

Postage	\$ 4.48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	—
Total Postage & Fees	\$ 10.48

Postmark Here

WU690-13-W-0-D
Kincaid Hills Water Company
P. O. Box 15016
Gainesville, FL 32604-5016

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Article Addressed to:</p> <p>WU690-13-W-0-D Kincaid Hills Water Company P. O. Box 15016 Gainesville, FL 32604-5016</p>	<p>A. Signature X <u>Benny Kincaid</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Benny Kincaid</u> C. Date of Delivery <u>10/26/17</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

7005 1160 0003 8791 0246

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

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
S. CURTIS KISER
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 23, 2013

WU690-12-W-D
Kincaid Hills Water Company
P. O. Box 15016
Gainesville, FL 32604-5016

Dear Certificate Holder:

The Division of Administrative Services has forwarded your account to our office to address the nonpayment of the Regulatory Assessment Fees (RAFs) required by Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for the year 2012, which was due April 1, 2013. The RAFs return form was mailed to you on February 15, 2013, and to date, Commission records reflect that payment has not been received.

According to Florida Law, you are required to add interest charges at 12% per annum, and a 5% penalty for each 30-day period or fraction thereof, beyond the due date, up to a maximum of 25% in addition to the delinquent amount due. In addition to penalties and interest, the commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$5,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 367.

Utilities are charged with knowledge of our rules and statutes. Moreover, it is general Commission practice that all utilities that apply for Water certificate receive a copy of all applicable rules. Further, in accordance with Section 367, Florida Statutes, as part of the application process, utilities provide an affidavit indicating that they have read and understood the applicable rules.

If you wish to request another form, please contact Valorie Moore at the number below. The payment should be identified with the company code and the company's name. Failure to provide payment within 15 days of this notice will result in the establishment of a docket to address your failure to return the RAFs form and pay RAFs in accordance with Section 367.145, Florida Statutes. The Commission may impose a fine, cancel your certificate, or place a lien on your property. Therefore, it is important that you address this matter now.

If you have paid your fees, please provide us with your check number and the date that it was paid.

Should you have any questions concerning this letter please contact Valorie Moore at (850) 413-6275 or via Internet e-mail at vmoores@psc.state.fl.us.

Sincerely,

S. Curtis Kiser
Office of the General Counsel

KMP
Enclosure
cc: Fiscal Services Section

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

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Internet E-mail: contact@psc.state.fl.us

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Received by (Please Print Clearly) <u>Daniel K. King</u> B. Date of Delivery <u>5/4/13</u></p> <p>C. Signature <u>[Signature]</u> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>D. Is delivery address different from Item 1? <input checked="" type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
1. Article Addressed to: WU690-12-4100 Kincaid Hills Water Company P.O. Box 15016 Gainesville, FL 32604-5016		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. <input type="checkbox"/> Return Receipt for Merchandise	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
7005 1160 0003 8791 2684			
PS Form 3811, March 2001		Domestic Return Receipt 102595-01-44-1424	

COMMISSIONERS:
RONALD A. BRISÉ, CHAIRMAN
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALDIS
JULIE I. BROWN

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
S. CURTIS KISER
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 23, 2012

WU690-11-W-D
Kincaid Hills Water Company
P. O. Box 579
Gainesville, FL 32602-0579

Dear Certificate Holder:

The Division of Administrative Services has forwarded your account to our office to address the nonpayment of the Regulatory Assessment Fees (RAFs) required by Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for the year 2011, which was due April 2, 2012. The RAFs return form was mailed to you on February 15, 2012, and to date, Commission records reflect that payment has not been received.

According to Florida Law, you are required to add interest charges at 12% per annum, and a 5% penalty for each 30-day period or fraction thereof, beyond the due date, up to a maximum of 25% in addition to the delinquent amount due. In addition to penalties and interest, the commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$5,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 367.

Utilities are charged with knowledge of our rules and statutes. Moreover, it is general Commission practice that all utilities that apply for Water certificate receive a copy of all applicable rules. Further, in accordance with Section 367, Florida Statutes, as part of the application process, utilities provide an affidavit indicating that they have read and understood the applicable rules.

If you wish to request another form, please contact Valorie Moore at the number below. The payment should be identified with the company code and the company's name. Failure to provide payment within 15 days of this notice will result in the establishment of a docket to address your failure to return the RAFs form and pay RAFs in accordance with Section 367.145, Florida Statutes. The Commission may impose a fine, cancel your certificate, or place a lien on your property. Therefore, it is important that you address this matter now.

If you have paid your fees, please provide us with your check number and the date that it was paid.

Should you have any questions concerning this letter please contact Valorie Moore at (850) 413-6275 or via Internet e-mail at vmoore@psc.state.fl.us.

Sincerely,

S. Curtis Kiser
S. Curtis Kiser
Office of the General Counsel

KMP
Enclosure
cc: Fiscal Services Section

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

PSC Website: <http://www.floridapsc.com>

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LISA POLAK EDGAR
RONALD A. BRISF
EDUARDO E. BATHIS
JULIE L. BROWN

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
S. CURTIS KISER
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 26, 2011

WU690-10-W-D
Kincaid Hills Water Company
P. O. Box 579
Gainesville, FL 32602-0579

Dear Certificate Holder:

The Division of Administrative Services has forwarded your account to our office to address the nonpayment of the Regulatory Assessment Fees (RAFs) required by Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for the year 2010, which was due March 31, 2011. The RAFs return form was mailed to you on February 15, 2011, and to date, Commission records reflect that payment has not been received.

According to Florida Law, you are required to add interest charges at 12% per annum, and a 5% penalty for each 30-day period or fraction thereof, beyond the due date, up to a maximum of 25% in addition to the delinquent amount due. In addition to penalties and interest, the commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$5,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 367.

Utilities are charged with knowledge of our rules and statutes. Moreover, it is general Commission practice that all utilities that apply for Water certificate receive a copy of all applicable rules. Further, in accordance with Section 367, Florida Statutes, as part of the application process, utilities provide an affidavit indicating that they have read and understood the applicable rules.

If you wish to request another form, please contact Valorie Moore at the number below. The payment should be identified with the company code and the company's name. Failure to provide payment within 15 days of this notice will result in the establishment of a docket to address your failure to return the RAFs form and pay RAFs in accordance with Section 367.145, Florida Statutes. The Commission may impose a fine, cancel your certificate, or place a lien on your property. Therefore, it is important that you address this matter now.

If you have paid your fees, please provide us with your check number and the date that it was paid.

Should you have any questions concerning this letter please contact Valorie Moore at (850) 413-6275 or via Internet e-mail at vmoores@psc.state.fl.us.

Sincerely,

Handwritten signature of S. Curtis Kiser.

S. Curtis Kiser
Office of the General Counsel

KMP
Enclosure
cc: Fiscal Services Section

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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Requested by (Please Print Clearly) <u>FRANCIS JONES</u> B. Date of Delivery <u>5/3/11</u></p> <p>C. Signature <u>[Signature]</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below</p>	
1. Article Addressed to: WU690 10-W D Kincaid Hills Water Company P. O. Box 579 Gainesville, FL 32602-0579		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
7005 1160 0003 8791 0178			
PS Form 3811, March 2001		Domestic Return Receipt	

COMMISSIONERS:
NANCY ARGENZIANO, CHAIRMAN
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
S. CURTIS KISER
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 21, 2010

WU690-09-W-D
Kincaid Hills Water Company
P. O. Box 579
Gainesville, FL 32602-0579

Dear Certificate Holder:

The Division of Administrative Services has forwarded your account to our office to address the nonpayment of the Regulatory Assessment Fees (RAFs) required by Section 367.145, Florida Statutes, and Rule 25-30.120, Florida Administrative Code, for the year 2009, which was due March 31, 2010. The RAFs return form was mailed to you on February 15, 2010, and to date, Commission records reflect that payment has not been received.

According to Florida Law, you are required to add interest charges at 12% per annum, and a 5% penalty for each 30-day period or fraction thereof, beyond the due date, up to a maximum of 25% in addition to the delinquent amount due. In addition to penalties and interest, the commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$5,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 367.

Utilities are charged with knowledge of our rules and statutes. Moreover, it is general Commission practice that all utilities that apply for Water certificate receive a copy of all applicable rules. Further, in accordance with Section 367, Florida Statutes, as part of the application process, utilities provide an affidavit indicating that they have read and understood the applicable rules.

If you wish to request another form, please contact Valorie Moore at the number below. The payment should be identified with the company code and the company's name. Failure to provide payment within 15 days of this notice will result in the establishment of a docket to address your failure to return the RAFs form and pay RAFs in accordance with Section 367.145, Florida Statutes. The Commission may impose a fine, cancel your certificate, or place a lien on your property. Therefore, it is important that you address this matter now.

If you have paid your fees, please provide us with your check number and the date that it was paid.

Should you have any questions concerning this letter please contact Valorie Moore at (850) 413-6275 or via Internet e-mail at vmoore@psc.state.fl.us.

Sincerely,

A handwritten signature in cursive script that reads "S. Curtis Kiser".

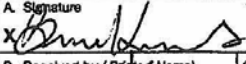
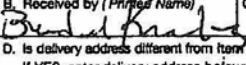

S. Curtis Kiser
Office of the General Counsel

KMP
Enclosure
cc: Fiscal Services Section

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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none">■ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.		<p>A. Signature </p> <p><input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
1. Article Addressed to:		B. Received by (Printed Name) 	C. Date of Delivery
WU690-08-W-D Kincaid Hills Water Company P. O. Box 579 Gainesville, FL 32602-0579		D. Is delivery address different from item 1? If YES, enter delivery address below: 	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	

7006 2760 0003 8795 1119

PS Form 3811, February 2004 Domestic Return Receipt 102585-02-44-1540

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NANCY ARGENZIANO
NATHAN A. SKOP

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

October 11, 2007

VIA CERTIFIED MAIL

RECEIVED-FPSC
07 OCT 11 AM 10:21
COMMISSION
CLERK

Mr. Berdell Knowles, Jr., President
Kincaid Hills Water Company
P.O. Box 579
Gainesville, FL 32602

RE: Docket No. 070580-WU, Delinquent Regulatory Assessment Fees, plus associated penalties and interest for the years 2004, 2005, 2006, and delinquent 2004, 2005, and 2006 annual reports.

Dear Mr. Knowles:

I am writing to inform you that the Commission has not received any payments whatsoever for the Regulatory Assessment Fees (RAFs) for the years 2004 and 2005, and has only received payment of the basic RAFs for 2006 on August 28, 2007. Because the 2006 RAFs were paid approximately five months late, a statutory penalty and interest is due for 2006, and the basic RAFs and associated penalties and interest are due for the years 2004 and 2005.

For the RAFs, plus associated penalties and interest, due in accordance with Sections 350.113 and 367.145, F.S., and Rule 25-30.120, Florida Administrative Code (F.A.C.), for the years 2004, 2005, and 2006, with interest being calculated through November 30, 2007, staff calculates the total amount due to be \$7,049.62. The amount due is calculated as follows:

Year	Revenues	RAFs(4.5%)	Penalty(25%)	Interest (Thru 11/30/07)	Total
2004	\$46,137	\$2,076.17	\$519.04	\$664.37	\$3,259.59
2005	\$47,752	\$2,148.84	\$537.21	\$429.77	\$3,115.82
2006	\$49,942	\$	\$561.85	\$112.37	\$674.21
Total	\$143,831	\$4,225.01	\$1,618.10	\$1,206.51	\$7,049.62

For the utility's failure to pay these amounts, the staff is scheduled to file its recommendation to the Commission on November 7, 2007, for consideration by the Commission. The recommendation will address, among other things, whether show cause proceedings for fines, revocation proceedings, and whether liens should be imposed for the utility's failure to pay the amounts due. The recommendation will also address the utility's failure to comply with the Payment Plan set forth in Order No. PSC-04-0615-FOF-WU, issued June 21, 2004.

Also, the utility filed the annual reports for 2004-2006 a total of 422 days late. Pursuant to Rule 25-30.110(7), F.A.C., the standard penalty is \$3 per day, and, if imposed, would be \$1,266. Therefore, staff calculates the total amount to be due for the years 2004-2006 to be \$8,315.62.

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0931 OCT 11 20
FPSC-COMMISSION CLERK

Mr. Berdell Knowles, Jr., President

Page 2

October 10, 2007

Pursuant to Section 367.161(2), Florida Statutes,

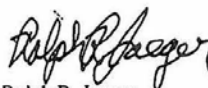
The Commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter by a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85. (emphasis added)

If payment in the amount of \$7,049.62 for the RAFs for the years 2004-2006, and \$1,266 for the delinquent annual reports for those years is not received by November 1, 2007, Commission staff will file its recommendation on November 7, 2007. If Kincaid is ultimately found to be in violation of Commission rules, in addition to being authorized to impose fines of up to \$5,000 for each day the violation continues, the Commission may impose a statutory lien upon the real and personal property of the utility, or revoke the utility's certificate.

In any event, it appears that you must quickly take some action to forestall the Commission opening enforcement proceedings against this utility, which will only further complicate the management of this utility. Your prompt attention in this matter is required. As stated above, if the Commission has not received the payments noted above by November 1, 2007, the Commission may be forced to open further enforcement proceedings, to include show cause proceedings or possibly revocation proceedings.

Finally, if you have questions regarding the matters discussed herein, you may contact me at (850) 413-6234.

Sincerely,



Ralph R. Jaeger
Senior Attorney

RRJ:th

cc: Division of Economic Regulation (Slemkewicz, Kaproth)
Division of Administrative Services (V. Moore)
Office of Commission Clerk (Docket file)

I:\2007\070580\070580.knowles\tr.mj.doc

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KATRINA J. MCMURRIAN

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

February 15, 2007

VIA CERTIFIED MAIL

Mr. Berdell Knowles, Jr., President
Kincaid Hills Water Company
P. O. Box 579
Gainesville, FL 32602

Re: Filing of 2006 Price Index, 2007 Price Index, and Pass-Through Increase for Regulatory Assessment Fees

Dear Mr. Knowles:

As discussed on February 14, Kincaid Hills Water Company may apply for the 2006 Price Index if it does so by March 31, 2007. This allows a 2.74% increase for certain Operation and Maintenance Expenses incurred in 2005. I have enclosed Order No. PSC-06-0075-PAA-WS which has the forms and directions for applying for the 2006 Price Index.

If the utility has never applied to increase its rates for the Commission Regulatory Assessment Fees that became applicable to the utility when Alachua County transferred jurisdiction to the Commission, then the utility may apply for a pass-through increase of 4.5% for the Regulatory Assessment Fees (RAFs). My review of the history of this utility shows that other than the grandfather application, two show cause proceedings, and two staff-assisted rate cases (both of which were withdrawn by the utility), there has not been an application to pass through the RAFs which became applicable when Alachua County gave jurisdiction to the Commission in 1992. The directions for applying for the pass-through increase are also contained in the Order noted above.

Finally, the utility will become eligible, as of April 1, 2007, to apply for the 2007 Price Index increase. This allows a 3.09% increase for certain Operation and Maintenance Expenses incurred in 2006. I have attached a package with the forms and directions for applying for this increase.

As noted above, you must apply for the 2006 Price Index increase by no later than March 31, 2007. Also, pursuant to Subsection 367.081(4)(e), Florida Statutes, "a utility may not adjust its rates under this subsection more than two times in any 12-month period." That subsection provides that a combined application or simultaneously filed applications shall be considered one

Mr. Berdell Knowles, Jr.
Page 2 of 2
February 15, 2007

rate adjustment. Therefore, if you are to take advantage of all three increases in the next 12 months, you must combine the pass-through with either one of the price indexes. Moreover, if you want to just send out one notice of a rate increase, you may waive implementation of the 2006 Price Index increase, and combine it with the 2007 Price Index increase (and the 4.5% RAF pass-through).

Hopefully, the above increases will enable the utility to pay all applicable RAFs. Also, as discussed, the utility must make up the RAF payments required in the settlement and pay the 2004 and 2005 RAFs as soon as possible, or staff will be forced to recommend to the Commission to initiate a show cause proceeding for implementation of fines. However, this does not keep you from proceeding with applying for the price indexes and the pass-through increase. Also, for the utility to take advantage of our limited proceedings and staff-assisted rate cases it must be in compliance with the orders, rules and statutes of this Commission, to include payment of RAFs.

If you have any legal questions, you may call me at 850-413-6234. However, if you have any technical questions about implementing either the price indexes or the pass-through increase, please call Bart Fletcher at 850-413-7017.

Sincerely,

Ralph R. Jaeger
Senior Attorney

RRJ:jb

cc: Division of Economic Regulation (Fletcher, Slemkewicz, Kaproth, Rendell, Bulecza-Banks)

I:\2007\kincaid\tr2.nj.doc

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

August 10, 2006

VIA CERTIFIED MAIL

Mr. Berdell Knowles, Jr., President
Kincaid Hills Water Company
P. O. Box 579
Gainesville, FL 32602

Re: Delinquent Payments - Regulatory Assessment Fee Payment Plan and Delinquent 2004 and 2005 Regulatory Assessment Fees and Delinquent 2005 Annual Report

Dear Mr. Knowles:

I am writing to inform you that the Commission has still not received Kincaid Hills' monthly payment in the amount of \$500.00 each for January, February, March, April, and May, 2006 (and now June and July). I talked to you at the end of July, and you indicated that you would be taking out a loan so that you would be able to make the required payments. By letter dated June 9, 2006, Ms. Helton, my supervisor, advised you that these payments were due pursuant to the payment plan for delinquent regulatory assessment fees established by Commission Order No. PSC-04-0615-FOF-WU, issued June 21, 2004.

Because Kincaid Hills is in violation of a Commission Order, staff is considering opening a docket to initiate show cause proceedings against Kincaid for its failure to abide by the regulatory assessment fees payment plan for the months of January through July, 2006. Order No. PSC-04-0615-FOF-WU stated that if the utility fails to make the required monthly installments by the due date of any month, further enforcement of the payment plan will be initiated, such as placement of a lien on the utility's property. Accordingly, a lien may be placed on Kincaid's property pursuant to Section 367.161, Florida Statutes.

Further, pursuant to Section 367.161(2), Florida Statutes,

The Commission has the power to impose upon any entity that is subject to its jurisdiction under this chapter and that is found to have refused to comply with, or to have willfully violated, any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000,

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Mr. Berdell Knowles, Jr., President

Page 2

August 10, 2006

which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. Each day that such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85.

Accordingly, if show cause proceedings are initiated, and if Kincaid is found to be in violation of Commission rules and statutes, the Commission has the authority to impose penalties, and to take further action, as stated in the above-referenced statute.

Your payment of \$4,000 (\$500 that was due January 20, 2006, \$500 that was due February 20, 2006, \$500 that was due March 20, 2006, \$500 that was due April 20, 2006, \$500 that was due May 20, 2006, \$500 that was due June 20, 2006, \$500 that was due July 20, 2006, and \$500 that will be due August 20, 2006) should be mailed with a copy of this letter to the Fiscal Services Section, Attn: Valerie Moore, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

If payment in the above amount is not received by September 1, 2006, Commission staff will open a docket to initiate show cause proceedings. If Kincaid is ultimately found to be in violation of Commission rules, in addition to being authorized to impose fines of up to \$5,000 for each day the violation continues, the Commission may impose a statutory lien upon the real and personal property of the utility.

Also, it has been brought to my attention that the utility has not paid its RAFs for 2004, and has not filed its annual report or paid RAFs for 2005, and those are all past due. Staff calculates for the year 2004 that the utility owes \$2,076.17 for the basic RAF, plus a penalty amount of \$519.04, and an interest amount of \$394.47, for a total amount due for the 2004 RAFs of \$2,989.68. The 2005 Annual Report was due on March 31, 2006, unless you applied for an extension (do not see any request for an extension). For each day after the date that the annual report is late, pursuant to Rule 25-30.110(7)(b), Florida Administrative Code, a \$3 penalty is imposed. As of September 1, 2006, the cumulative penalty for failure to file the 2005 annual report would equal \$459 (30 days in April + 31 days in May + 30 days in June + 31 days in July + 31 days in August = 153 days times \$3 per day = \$459). It is imperative that you file the 2005 Annual Report as soon as possible as the \$3 penalty per day is just continuing to mount. Also, penalties and interest are imposed for late RAFs pursuant to Rule 25-30.120(7)(a), Florida Administrative Code.

It appears that you are really struggling with making these required payments, and I note that other than the show cause docket, Docket No. 040248-WU, opened in 2004, the utility has had no dockets open with this Commission since 1997. You may want to call Troy Rendell at 850-413-6934 to discuss the availability of various simple means for increasing revenues. Also, you may want to talk to Pattie Daniel at 850-413-6808 to discuss whether this utility should either be sold to the county

Mr. Berdell Knowles, Jr., President
Page 3
August 10, 2006

or turned over to the county for operation by the county. Either of these individuals could assist you in the relief available to you.

In any event, it appears that you must quickly take some action to forestall the Commission opening enforcement proceedings against this utility, which will only further complicate the management of this utility. Your prompt attention in this matter is required. As stated above, if the Commission has not received a minimum of \$4,000 by September 1, 2006, staff will be forced to open enforcement and show cause proceedings.

Finally, if you have questions regarding the matters discussed herein, you may contact me at (850) 413-6234.

Sincerely,

Ralph R. Jaeger
Senior Attorney

RRJ:jb

cc: Division of Economic Regulation (Slemkewicz, Kaproth, Rendell, Daniel)
Division of the Commission Clerk and Administrative Services (Moore, Docket file)

l:2006/kincaid/r.rj.doc

NOTICE OF NONCOMPLIANCE
Kincaid Hills Water Company (WU690)

EXHIBIT B

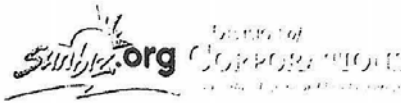
Kincaid Hills Water Co. Florida Corporate Information

Detail by Entity Name

Page 1 of 2

[Florida Department of State](#)

DIVISION OF CORPORATIONS



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

Detail by Entity Name

Florida Profit Corporation
KINCAID HILLS WATER COMPANY

Filing Information

Document Number G00727
FEI/EIN Number 59-2221952
Date Filed 09/15/1982
State FL
Status INACTIVE
Last Event PENDING REINSTATEMENT
Event Date Filed 03/31/2016

Principal Address

3260 S E 19TH AVENUE
P.O.BOX 579
GAINESVILLE, FL 32641

Changed: 05/06/1998

Mailing Address

P O BOX 579
P.O.BOX 579
GAINESVILLE, F 32602

Changed: 06/26/1995

Registered Agent Name & Address

KNOWLES, BERDELL
1700 S.E. 47 TERR.
GAINESVILLE, FL 32601

Name Changed: 05/19/1989

Address Changed: 05/19/1989

Officer/Director Detail

Name & Address

Title P

KNOWLES, BERDELL
1700 S.E. 47 TERR
GAINESVILLE, FL

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=Entity...> 7/21/2017

Detail by Entity Name

Page 2 of 2

Title T

KNOWLES, MARILYN
1700 SE 47 TERR
GAINESVILLE, FL

Title V

KNOWLES, BERDELL JR
1700 SE 47 TERR
GAINESVILLE, FL

Title S

KNOWLES, DENELLE
1700 SE 47 TERR
GAINESVILLE, FL

Annual Reports

Report Year	Filed Date
1996	05/01/1996
1997	05/16/1997
1998	05/06/1998

Document Images

05/06/1998 -- ANNUAL REPORT	View image in PDF format
05/16/1997 -- ANNUAL REPORT	View image in PDF format
05/01/1996 -- ANNUAL REPORT	View image in PDF format
05/26/1995 -- ANNUAL REPORT	View image in PDF format

Florida Department of State, Division of Corporations

NOTICE OF NONCOMPLIANCE
Kincaid Hills Water Company (WU690)

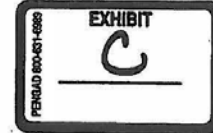
EXHIBIT C

Commission Staff Correspondence

RE: Kincaid Compliance Plan

Kelley Corbari

From: Todd Brown
Sent: Friday, April 01, 2016 3:14 PM
To: Kelley Corbari; Bart Fletcher
Cc: Curt Mouring
Subject: RE: SARC



I called and left a message for Mr. Knowles this morning, but haven't heard back from him yet.

Todd

From: Kelley Corbari
Sent: Thursday, March 31, 2016 4:39 PM
To: Bart Fletcher; Todd Brown
Cc: Curt Mouring
Subject: RE: SARC

Let me know if one of you talk Mr. Knowles.

Kelley F. Corbari,

Senior Attorney - Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.

From: Berdell Knowles, Jr. [<mailto:berdell@alum.mit.edu>]
Sent: Thursday, March 31, 2016 12:52 PM
To: Bart Fletcher; Todd Brown
Cc: Kelley Corbari; KINCAIDHILLSWATERCO@YAHOO.COM; berdell1@yahoo.com
Subject: SARC

Mr. Fletcher, Mr. Brown,

I wanted to speak with one or both of you at your convenience about preparing a SARC for Kincaid Hills Water Company. Please let me know a good time to have some discussion with one or both of you about how we can proceed.

Thanks,

Berdell Knowles, Jr.

310-821-1235

CONFIDENTIALITY NOTICE: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you have received this message by error, please delete it from your records.

Kelley Corbari

From: Kelley Corbari
Sent: Thursday, March 31, 2016 4:41 PM
To: 'berdell@alum.mit.edu'
Cc: KINCAIDHILLSWATERCO@YAHOO.COM; berdell1@yahoo.com
Subject: RE: Kincaid Hills Water

Thanks for the update Berdell.

I am happy to resume conversations in a couple of weeks so long as we receive Kincaid's 2015 RAFs and Annual Reports timely. Both must be postmarked today for them to be considered timely filed. I appreciate you continuing to work on this.

Thanks,
Kelley

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235

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From: Berdell Knowles, Jr. [<mailto:berdell@alum.mit.edu>]
Sent: Thursday, March 31, 2016 12:58 PM
To: Kelley Corbari
Cc: KINCAIDHILLSWATERCO@YAHOO.COM; berdell1@yahoo.com
Subject: RE: Kincaid Hills Water

Updates:

1. Waiting to get some advice from a consultant, but likely not going to pursue any transfer/name change at this point.
2. The Reinstatement application was just approved, so I am preparing to submit payment.
3. Can we resume this conversation in a couple weeks? I have some unrelated mid-month deadlines I need to address, and would prefer to focus on those for now if that's ok with you.
4. Left voicemails today, and sent follow-up email to begin the process.
5. Hoping it was completed, but waiting on confirmation from my dad. Will make sure it's done and confirm it's in the mail when I can.

From: Berdell Knowles, Jr. [<mailto:berdell@alum.mit.edu>]
Sent: Friday, March 18, 2016 7:10 AM
To: 'Kelley Corbari'

Cc: 'Charles Murphy'; 'Keino Young'
Subject: RE: Kincaid Hills Water

Thanks, Kelley. I was able to speak with Berdell Sr. about the items below, and wanted to schedule a time to follow-up with you next week. We will be moving forward on all these items. As you noted, we need to discuss #1 and 3 with you.

How about Tuesday at 11:30 EST?

From: Kelley Corbari [<mailto:KCorbari@psc.state.fl.us>]
Sent: Monday, March 14, 2016 9:03 AM
To: 'berdell@alum.mit.edu'
Cc: Charles Murphy; Keino Young
Subject: RE: Kincaid Hills Water

Hi Berdell,

Thank you for getting back to me. I will try to do my best answer your questions

1. Transfer & Name Change

If you are going to assume control of the Utility then you and your father need to file for a transfer of majority control. If you plan to change the name of the Utility, you can request the name change in the transfer filing. If you only want to change the name of the Utility, you can do that as well. Please note that you are going to have to provide some kind of corporate documentation for either the transfer or name change filings.

With regard to the liability of the current ownership if a transfer and/or name change were granted, the current owner remains liable for any outstanding amounts owed to the Commission. Also, you should be aware that, since the Utility let its corporate status lapse, all officers of the currently inactive corporation could be individually and personally liable for any outstanding debts and/or responsibilities of the Utility.

2. Corporate Status

If you do not plan to change the name of the Utility, the status of the current corporation should be updated and reactivated with the Florida Secretary of State as soon as possible.

3. Delinquent RAFs & Annual Report Penalties

I am the point of contact for resolving the outstanding RAF and annual report penalty amounts owed by the Utility. My contact information is:

Phone: (850) 413-6234
Email: KCorbari@psc.state.fl.us

4. Staff-Assisted Rate Case (SARC)

For questions about filing a SARC, you can contact me, Todd Brown or Bart Fletcher, both of whom are in the Commission's Accounting and Finance Division. Their contact information is:

- Todd Brown (850) 413-6550 TBrown@psc.state.fl.us
- Bart Fletcher (850) 413-7017 BFletche@psc.state.fl.us

5. 2015 RAF and Annual Report

For questions about the Utility's 2015 RAFs and Annual Reports that are due March 31, 2016, contact the following individuals:

- RAF Filing: Toni Earnhart (850) 413-6532 TEarnhar@psc.state.fl.us
- Annual Reports: Bart Fletcher (850) 413-7017 BFletche@psc.state.fl.us

If you need to file an extension to submit the Utility's 2015 Annual Report, you need to submit a request in writing by March 31st to the following:

Andrew Maury, Director
Division of Accounting and Finance
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Please note that because the Utility owes RAFs for past periods, the Utility is not eligible for an extension to submit its 2015 RAFs. If the Utility does not submit its RAFs by the due date, penalties and interest will be assessed. If the Utility requests an extension to file its annual reports, however, it may submit an estimated RAF return for 2015 by the March 31st due date. The estimated RAF amount can be based on the Utility's prior year's revenues or its 2015 estimated revenues. Once the Utility files its annual reports, it must submit an amended RAF return.

I am available to talk to you about any of these issues at your convenience. I am in the office all week, but there are a lot of people out this week with their families because it is spring break for the schools here. So if you don't hear back right away from someone, that is probably why.

Thanks,
Kelley

Kelley F. Corbari
Senior Attorney - Regulatory Analysis Section
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Email: KCorbari@psc.state.fl.us
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From: Berdell Knowles, Jr. [mailto:berdell@alum.mit.edu]
Sent: Friday, March 11, 2016 4:31 PM
To: Kelley Corbari
Cc: Charles Murphy; Keino Young
Subject: RE: Kincaid Hills Water

Kelley,

Thank you for reaching out to follow up.

1. I will follow-up on the feasibility of the name-change and transfer early next week. The main factor here will be the ability to ensure a clean slate and no lingering or residual liabilities from the current ownership.
2. I was under the impression that the corporate status was taken care of, but I will get an update on this asap and follow-up with you early next week on this, as well. I know this is critical.
3. I will contact staff to work out a resolution of the '12 and '13 penalties. Can you advise as to who is the best point of contact?
4. I also want to get started with the rate case. Can you advise as to who is the best contact to begin with?
5. I will be the best point of contact for the utility. Please let me know when you would like to discuss these issues. I can be reached via telephone at (310) 821-1235 8am PST (11am EST) – 8pm PST (11pm EST), seven days a week.

Thanks, again.

From: Kelley Corbari [mailto:KCorbari@psc.state.fl.us]
Sent: Tuesday, March 08, 2016 12:24 PM
To: 'berdell@alum.mit.edu'
Cc: Charles Murphy; Keino Young
Subject: Kincaid Hills Water
Importance: High

Berdell –

I am checking in with you with regard to Kincaid Hills Water Company.

First, please note that the Utility's **2015 Regulatory Assessment Fees (RAF) and Annual Report are due by March 31, 2016**. I have attached a blank copy of a RAF Return Form and Annual Report Form for your convenience. Also, you can find a copy of the Annual Report form on the Commission's website at <http://www.floridapsc.com/WaterWasteWater/AnnualReportForms>

Second, the last time we spoke in April of last year, you were looking into the possibility of having your father transfer the Utility to you and possibly changing the name of the Utility. Also, you and your father were going to discuss the possibility of the Utility filing for a staff-assisted rate case or an annual pass-through. However, there is no record of the Utility taking any action at the Commission to request a transfer, name change, staff-assisted rate case, or pass-through

index. Nor does it appear the Utility has taken any action to update its inactive, corporate status with the Florida Secretary of State.

In addition, it was Staff's understanding that, once the Utility paid its delinquent 2010 and 2011 RAFs and filed its delinquent annual reports, the Utility was going to continue to negotiate with Staff regarding payment of the RAF amounts Kincaid still owes for 2012 and 2013 and the annual report penalties. However, staff has not had any contact with the Utility since April of last year.

Have you assumed handling the operations of the Utility or is your father still running the Utility? The issues concerning the Utility's delinquent RAFs, annual report penalties, and corporate status need to be resolved as soon as possible or an enforcement proceeding may be initiated against the Utility. Please let me know the appropriate Utility representative to contact and discuss these issues.

Sincerely,
Kelley Corbari

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
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From: Kelley Corbari
Sent: Monday, March 30, 2015 1:49 PM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Shari Cornelius; Toni Earnhart; Karen Belcher; Bart Fletcher
Subject: RE: Information RE Name Change & Transfer of Control

Berdell –

Kincaid's Annual Report and RAF Return/Payment will be considered timely filed so long as they are **postmarked on or before March 31st**. Please note that the Annual Report and the RAF Return/Payment are sent to different divisions.

Send original signed Annual Report and 2 copies to:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ATTENTION: Division of Accounting and Finance

Send original signed RAF Return and Payment to:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ATTENTION: Fiscal Services

Let me know if you have any other questions.

Thanks so much,
Kelley

Kelley F. Corbari,

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Sent: Monday, March 30, 2015 12:31 PM
To: Kelley Corbari
Subject: RE: Information RE Name Change & Transfer of Control

Kelley,

We are preparing to send the reports and payments in today. Do they need to be overnighted, or just post-marked by today/tomorrow?

Thanks again for all this information; it was very helpful.

From: Kelley Corbari [<mailto:KCorbari@psc.state.fl.us>]
Sent: Thursday, March 26, 2015 1:27 PM
To: berdell@alum.mit.edu
Subject: Information RE Name Change & Transfer of Control

Berdell,

Per our conversation yesterday, I am getting back to you with information regarding a utility name change and transfer of majority control. As I stated, both a name change and transfer require filing an application with the Commission for approval.

Name Change:

An application for name change can be done so long as there is no change in the ownership or control of the utility or its assets and the utility must notify the Commission prior to changing its name. There is no filing fee associated for filing an application for name change. I have attached an example of a name change application that was filed in the past by another utility.

Transfer of Majority Control

A Transfer of Majority Control application is an more involved process. There is a \$750 filing fee for filing a transfer application. I have attached the transfer application informational packet, which can be found on the Commission website at: <http://www.floridapsc.com/utilities/waterwastewater/applicationpkg/index.aspx>

I hope this information is helpful. Let me know if you have any questions.

Thanks so much,
Kelley

Kelley F. Corbari,

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From: Kelley Corbari
Sent: Tuesday, March 08, 2016 3:24 PM
To: 'berdell@alum.mit.edu'
Cc: Charles Murphy; Keino Young
Subject: Kincaid Hills Water
Attachments: 2015 RAF Return Form - Class C.doc.xml; Annual Report Form - Class C.xls; Kincaid Hills - Delinquent RAFs & ARs (Thru 03-31-16).pdf

Importance: High

Berdell -

I am checking in with you with regard to Kincaid Hills Water Company.

First, please note that the Utility's **2015 Regulatory Assessment Fees (RAF) and Annual Report are due by March 31, 2016**. I have attached a blank copy of a RAF Return Form and Annual Report Form for your convenience. Also, you can find a copy of the Annual Report form on the Commission's website at <http://www.floridapsc.com/WaterWasteWater/AnnualReportForms>

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Have you assumed handling the operations of the Utility or is your father still running the Utility? The issues concerning the Utility's delinquent RAFs, annual report penalties, and corporate status need to be resolved as soon as possible or an enforcement proceeding may be initiated against the Utility. Please let me know the appropriate Utility representative to contact and discuss these issues.

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2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ATTENTION: Fiscal Services

Let me know if you have any other questions.

Thanks so much,
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Office of the General Counsel

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I hope this information is helpful. Let me know if you have any questions.

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I hope this information is helpful. Let me know if you have any questions.

Thanks so much,
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Kelley Corbari

From: Berdell Knowles, Jr. <berdell@alum.mit.edu>
Sent: Tuesday, March 24, 2015 5:09 PM
To: Kelley Corbari
Cc: Adam Teitzman; Leslie Ames; Toni Earnhart; Andrew Maurey; Tom Ballinger; Lynn Deamer; Jim Dean
Subject: RE: Kincaid Hills - Rate Case & RAFs

Hello, Ms Corbari.

My father had emergency surgery a few weeks ago, and is on schedule to recover and resolve the matters listed below by the end of the month as we discussed. I will follow up with a phone call as you requested later this week.

I do not understand the purpose of the comment that "it does not appear that Kincaid has made an effort to complete any of the task Staff required" without at first attempting to contact me/us to ascertain where we are on those items. It seems unfair, as I do nothing but continue to make every effort to be responsive and productive in helping resolve the issues we all know have been issues in the past with Kincaid. Going forward, I hope that we can continue to work together on resolving these issues without any undo bias because we all also know this system has been resource constrained and needs as much support as possible to get it where it needs to be to serve its community most effectively.

Thanks again for your continued support.

From: Kelley Corbari [mailto:KCorbari@psc.state.fl.us]
Sent: Tuesday, March 24, 2015 12:59 PM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Leslie Ames; Toni Earnhart; Andrew Maurey; Tom Ballinger; Lynn Deamer; Jim Dean
Subject: RE: Kincaid Hills - Rate Case & RAFs
Importance: High

Dear Berdell:

I wanted to check in with you and obtain an update on Kincaid's compliance efforts. During our conversation on February 16, 2015, Staff outlined the next steps Kincaid must take in its efforts to resolve its compliance issues with the Commission. Per our discussion, Kincaid Hills was required to (1) timely file its 2014 Annual Reports, (2) timely file and submit payment of its 2014 RAFs, (3) update its Corporate status with the Florida Secretary of State, and (4) submit an application for a Staff-Assisted Rate Case.

At this time, it does not appear that Kincaid has made an effort to complete any of the tasks Staff required. A recent search of the Florida Secretary of State Corporation Database still shows Kincaid's corporate status as "inactive" (see attached). While Kincaid's 2014 Annual Report and RAFs are not due until March 31, 2015, Kincaid has not submitted its 2014 Annual Reports, RAFs, or application for a Staff-Assisted Rate Case.

Please contact me as soon as possible and provide me with an update on the status of these matters. Should Kincaid fail to submit its 2014 Annual Reports and RAFs or update

its corporate status by **March 31, 2015**, Staff will begin initiating enforcement proceedings against the Utility.

Sincerely,
Kelley Corbari

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
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From: Kelley Corbari
Sent: Tuesday, February 17, 2015 10:48 AM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Leslie Ames; Toni Earnhart; Andrew Maurey; Tom Ballinger; Lynn Deamer; Jim Dean
Subject: Kincaid Hills - Rate Case & RAFs
Importance: High

Berdell –

This is to confirm our discussion of yesterday afternoon regarding the Kincaid's compliance status and possible rate-case application. Below is a list of the topics we discussed, including information on the topics:

- **Staff-Assisted Rate Case (SARC):**
 - SARC Application *(attached)*
 - SARC filing fee of \$1,000.00 is due within 30 days of acceptance of application.
 - Compile all billing and expense data for at least the prior year, including any documentation for utility related expenses
- **2014 Annual Report and Regulatory Assessment Fee (RAFs) Filings:**

Kincaid Hills must submit its 2014 Annual Report and RAFs timely and in full.

 - Due: March 31, 2015
 - Annual Report Form *(attached)*
 - 2014 RAF Return Form *(attached)*
- **Corporate Status:**

Kincaid Hills must update and maintain its corporate status with the Florida Secretary of State

- <https://secure.flcorporatefilings.com/cgi-bin/ws.vbp?PRPA=index&gclid=CNDDuYeo58MCFYQ2gQodXAIAeg>

Also, the SARC application and Annual Report Forms can be found on the Commission website, as well as, a link to the annual Price Index and Pass Through application, which outlines what types of expenses/costs a utility may apply for recovery of outside of a rate case.

<http://www.floridapsc.com/utilities/waterwastewater/index.aspx>

- Annual Reports & RAFs: <http://www.floridapsc.com/utilities/waterwastewater/annualreport/index.aspx>
- 2014 Price Index and Pass Through Application: <http://www.floridapsc.com/library/filings/14/01208-14/01208-14.pdf>
- Staff Assisted Rate Case Application Form

We appreciate you and your father taking the time to speak with us. Please let me know if you have any questions or need any additional information.

Thanks so much,
Kelley

Kelley F. Corbari,

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Cc: Adam Teitzman; Leslie Ames; Toni Earnhart; Andrew Maurey; Tom Ballinger; Lynn Deamer; Jim Dean
Subject: Kincaid Hills - Rate Case & RAFs
Attachments: Water-Sewer - Annual Report Form.xls; Water-Sewer - SARC Application Form.doc; Kincaid Hills - RAF Form.doc

Importance: High

Tracking:	Recipient	Delivery	Read
	'berdell@alum.mit.edu'		
	Adam Teitzman	Delivered: 2/17/2015 10:48 AM	
	Leslie Ames	Delivered: 2/17/2015 10:48 AM	Read: 2/17/2015 10:48 AM
	Toni Earnhart	Delivered: 2/17/2015 10:48 AM	Read: 2/17/2015 11:48 AM
	Andrew Maurey	Delivered: 2/17/2015 10:48 AM	Read: 2/17/2015 11:07 AM
	Tom Ballinger	Delivered: 2/17/2015 10:48 AM	Read: 2/17/2015 11:00 AM
	Lynn Deamer	Delivered: 2/17/2015 10:48 AM	
	Jim Dean	Delivered: 2/17/2015 10:48 AM	

Berdell -

This is to confirm our discussion of yesterday afternoon regarding the Kincaid's compliance status and possible rate-case application. Below is a list of the topics we discussed, including information on the topics:

- **Staff-Assisted Rate Case (SARC):**
 - SARC Application (*attached*)
 - SARC filing fee of \$1,000.00 is due within 30 days of acceptance of application.
 - Compile all billing and expense data for at least the prior year, including any documentation for utility related expenses
- **2014 Annual Report and Regulatory Assessment Fee (RAFs) Filings:**

Kincaid Hills must submit its 2014 Annual Report and RAFs timely and in full.

 - Due: March 31, 2015
 - Annual Report Form (*attached*)
 - 2014 RAF Return Form (*attached*)
- **Corporate Status:**

Kincaid Hills must update and maintain its corporate status with the Florida Secretary of State

- <https://secure.flcorporatefilings.com/cgi-bin/ws.vbp?PRPA=index&gclid=CNDDuYeo58MCFYQ2gQodXAlAeg>

Also, the SARC application and Annual Report Forms can be found on the Commission website, as well as, a link to the annual Price Index and Pass Through application, which outlines what types of expenses/costs a utility may apply for recovery of outside of a rate case.

<http://www.floridapsc.com/utilities/waterwastewater/index.aspx>

- Annual Reports & RAFs: <http://www.floridapsc.com/utilities/waterwastewater/annualreport/index.aspx>
- 2014 Price Index and Pass Through Application: <http://www.floridapsc.com/library/filings/14/01208-14/01208-14.pdf>
- Staff Assisted Rate Case Application Form

We appreciate you and your father taking the time to speak with us. Please let me know if you have any questions or need any additional information.

Thanks so much,
Kelley

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.

Kelley Corbari

From: Kelley Corbari
Sent: Monday, February 16, 2015 10:47 AM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Leslie Ames
Subject: RE: Kincaid Hills - Compliance

Berdell -

Per our conversation, we will have a call with you and your father at 1:30p today. We will call you and you can conference in your dad. Let me know if something comes up between now and then.

Thanks so much!
Kelley

Kelley F. Corbari,

Senior Attorney - Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
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From: Berdell Knowles, Jr. [<mailto:berdell@alum.mit.edu>]
Sent: Monday, February 16, 2015 10:41 AM
To: Kelley Corbari
Cc: Adam Teitzman; Leslie Ames
Subject: RE: Kincaid Hills - Compliance

That's fine. I am still stuck in traffic, but I can take the call on the road. If you want to wait another hour, then I might be back in the office. But, I'm ok, either way.

I'm at 310-874-2019. I can conference in my dad after you call me.

From: Kelley Corbari [<mailto:KCorbari@psc.state.fl.us>]
Sent: Monday, February 16, 2015 7:18 AM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Leslie Ames
Subject: RE: Kincaid Hills - Compliance
Importance: High

Berdell -

11:00 this morning works for us. Shall we call you?

Thanks!
Kelley

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
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From: Berdell Knowles, Jr. [<mailto:berdell@alum.mit.edu>]
Sent: Friday, February 13, 2015 5:47 PM
To: Kelley Corbari
Subject: RE: Kincaid Hills - Compliance

Sorry for the delay. Let's try 11am, Monday. Please let me know if that time works.

From: Kelley Corbari [<mailto:KCorbari@psc.state.fl.us>]
Sent: Friday, February 13, 2015 10:31 AM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Leslie Ames
Subject: RE: Kincaid Hills - Compliance
Importance: High

Berdell –

I just wanted to follow up to see if you were able to figure out a time that works for you for a call on Monday?

Thanks!
Kelley

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235

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From: Kelley Corbari
Sent: Tuesday, February 10, 2015 9:15 AM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Leslie Ames
Subject: RE: Kincaid Hills - Compliance

Berdell,

I was thinking the afternoon would be easier for you since you were out west, but since you will be in Florida the morning is fine. Any time after 9:30 is good for us. Just let me know what works for you and your father. Once we confirm a time, I will set up a conference call number for you all to call into.

Thanks so much!
Kelley

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235

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From: Berdell Knowles, Jr. [<mailto:berdell@alum.mit.edu>]
Sent: Monday, February 09, 2015 7:54 PM
To: Kelley Corbari
Cc: Adam Teitzman; Leslie Ames
Subject: RE: Kincaid Hills - Compliance

I will actually be in Florida on Monday, 2/16, so I am available. The morning would be much better than the afternoon, however. Please let me know a few times that are options, and I will confirm one.

Thanks for reaching out.

Berdell Knowles, Jr.

☎ 310-821-1235 • 310-874-2019

CONFIDENTIALITY NOTICE: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you have received this message by error, please delete it from your records.

From: Kelley Corbari [<mailto:KCorbari@psc.state.fl.us>]
Sent: Monday, February 9, 2015 12:15 PM
To: berdell@alum.mit.edu
Cc: Adam Teitzman; Leslie Ames
Subject: Kincaid Hills - Compliance
Importance: High

Berdell,

Staff has finished reviewing Kincaid's 2009-2013 Annual Reports that were submitted in late December. Now that Kincaid's delinquent annual reports have been received, we can discuss the possibility of Kincaid filing a Staff-Assisted Rate Case and the other outstanding compliance matters.

Are you available for a conference call the afternoon of **Monday, February 16th** to discuss these matters? In addition, it would be very helpful to have your father participate in call if at all possible as his involvement will be necessary to processing any rate case and resolving the outstanding compliance issues.

Let me know your availability and I will set up the call.

Thanks so much,
Kelley

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
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Kelley Corbari

From: Kelley Corbari
Sent: Monday, December 08, 2014 10:55 AM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Michael Lawson; Bart Fletcher; Lee Smith
Subject: RE: Kincaid Hills - Annual Report Deficiencies
Attachments: Kincaid Letter - Annual Report Deficiencies (11-24-14).pdf

Hi Berdell,

I apologize for just getting back to you. I was out last Friday.

At this point, there are no other items outstanding other than the annual report deficiencies that need correcting. If we receive the corrected reports by December 29th, there will be no further penalties assessed for the annual reports being delinquent. Once we have received the revised reports and the reports are deemed sufficient, I will contact you regarding the next steps for bringing the utility into compliance and filing a Staff Assisted Rate Case.

I am sorry to hear you have been under the weather. I hope you are feeling better. I am in the office today if you have any other questions.

Thanks so much,
Kelley

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235

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From: Berdell Knowles, Jr. [<mailto:berdell@alum.mit.edu>]
Sent: Friday, December 05, 2014 1:30 PM
To: Kelley Corbari
Cc: Adam Teitzman; Michael Lawson; Bart Fletcher; Lee Smith
Subject: RE: Kincaid Hills - Annual Report Deficiencies

Kelley,

I wanted to check in and make sure everything we discussed is still on track. I was out for the past week with a medical issue, and just wanted to stay on top of this if I can. I see below that we need the corrected reports in by 12/29, but I want to get them in next week. I wanted to also make sure there wasn't something we missed this week while I was out. Please let me know if there is?

From: Kelley Corbari [<mailto:KCorbari@psc.state.fl.us>]
Sent: Monday, November 24, 2014 9:29 AM
To: berdell@alum.mit.edu
Cc: Adam Teitzman; Michael Lawson; Bart Fletcher; Lee Smith
Subject: Kincaid Hills - Annual Report Deficiencies
Importance: High

Berdell –

Staff has completed its review of the annual reports Kincaid submitted for the years 2009-2013. Unfortunately, there were a few deficiencies in the reports that must be corrected for the reports to be deemed sufficient. Therefore, please see the attached letter which was mailed to the Utility today outlining the deficiencies contained in the reports.

Please note that the deficiencies must be corrected and the revised reports received by the Commission by **December 29, 2014**, or penalties will continue to accrue. Once we have received the revised reports and the reports are deemed sufficient, I will contact you regarding the next compliance steps.

If you have any questions regarding the deficiencies, please do not hesitate to contact me at (850) 413-6234 or Bart Fletcher at (850) 413-7017.

Thank you,
Kelley

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235



Kelley Corbari

From: Berdell Knowles, Jr. <berdell@alum.mit.edu>
Sent: Thursday, November 20, 2014 9:38 PM
To: Kelley Corbari
Cc: Adam Teitzman; Michael Lawson; Toni Earnhart; Andrew Maurey; Bart Fletcher
Subject: RE: Kincaid Hills - Received Delinquent Annual Reports & 2010-11 RAF Payment

Thank you for the update, and I look forward to discussing the next steps.

From: Kelley Corbari [mailto:KCorbari@psc.state.fl.us]
Sent: Thursday, November 20, 2014 11:59 AM
To: berdell@alum.mit.edu
Cc: Adam Teitzman; Michael Lawson; Toni Earnhart; Andrew Maurey; Bart Fletcher
Subject: Kincaid Hills - Received Delinquent Annual Reports & 2010-11 RAF Payment

Berdell –

This is to confirm that the Commission received Kincaid's payment in the amount of \$8,690.15 for the amounts owed by Kincaid for its past due 2010 and 2011 Regulatory Assessment Fees, including Penalty and Interest. In addition, we received Kincaid's delinquent Annual Reports for the years 2009-2013. The annual reports are being processed and reviewed by our staff, which should take about a week or 2 to complete. Once staff has reviewed all the reports, I will contact you to discuss additional compliance steps and assisting Kincaid in filing a Staff Assisted Rate Case.

Thank you for your cooperation thus far. If you have any comments or questions, please do not hesitate to contact me.

Kelley

Kelley F. Corbari,
Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235



Karen Belcher

WU 690-2011-W

See 2010
Total \$ 8,690.15

From: Kelley Corbari
Sent: Monday, November 10, 2014 2:12 PM
To: Karen Belcher; Toni Earnhart
Cc: Michael Lawson; Adam Teitzman
Subject: Kincaid Hills - Past Due RAFs
Attachments: 20141107_084056.jpg DATE DEPOSIT

CH# 143 / 1013
\$ 2657.34 R
664.34 I
876.92 I
11-7-14 RR

Karen -

NOV 14 2014 480.

Be on the lookout for Kincaid Hills Water Company payment for its past due RAFs. As we discussed, the \$8,690.15 payment should be applied to Kincaid's past due RAFs and P&I for 2010 and 2011. We will be addressing the other years at a later date.

YEAR	REVENUES	RAFS (4.5%)	PAYMENTS	PENALTY (25%)	INTEREST (1%) (THRU 11/20/14)	TOTAL DUE
2011	\$59,052.00	\$2,657.34	\$0.00	\$664.34	\$876.92	\$4,198.60
2010	\$58,713.00	\$2,642.09	\$0.00	\$660.52	\$1,188.94	\$4,491.55
TOTALS	\$117,765.00	\$5,299.43	\$0.00	\$1,324.86	\$2,065.86	<u>\$8,690.15</u>

Let me know if you have any questions.

Thanks!
Kelley

Kelley F. Corbari
Senior Attorney - Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235

CH 143 \$1,990.15 2010 RAF
CH 1013 \$6,700.00 2010 RAF
2010 P \$660.52
2010 I \$1,188.94
2011 RAF \$2,657.34
2011 P \$664.34
2011 I \$876.92
\$8,690.15

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From: Berdell Knowles, Jr. [<mailto:berdell@alum.mit.edu>]
Sent: Friday, November 07, 2014 11:55 AM
To: Kelley Corbari

Cc: Michael Lawson; Adam Teitzman; Andrew Maurey
Subject: RE: Kincaid Hills - Annual Reports Insufficient

Please disregard the 2012 and 2013 reports, they contained errors. I will be submitting the corrected versions via mail today.

Also, I have enclosed images of the checks being mailed today for the \$8,690.15 amount discussed, previously. They are made payable to the FPSC and sent to the address in your signature, below.

Please advise if there are any issues with this course of action, if there is something I need to correct, or if they are in accordance with our verbal agreement at your earliest opportunity.

Thank you,
Berdell Knowles, Jr.
(310) 821-1235

From: Kelley Corbari [<mailto:KCorbari@psc.state.fl.us>]
Sent: Thursday, November 6, 2014 12:03 PM
To: berdell@alum.mit.edu
Cc: Michael Lawson; Adam Teitzman; Andrew Maurey
Subject: Kincaid Hills - Annual Reports Insufficient
Importance: High

Berdell -

I received all of your emails with Excel files of Kincaid's annual reports for 2009-2013 and I forwarded them onto our staff to be reviewing. I really appreciate your effort getting the reports to me. Unfortunately, however, the Excel files you emailed are insufficient because they do not comply with our rules governing annual reports. Pursuant to Rule 25-30.110, the Utility must submit an original and 2 copies of each Annual Report. In addition, **each report must be certified**, meaning the Certification page of each report must be signed by the Utility's CEO and CFO.

Therefore, please have the Utility's CEO (your father) sign and certify each of the Annual Reports. Once the reports have been certified, please mail the original and 2 copies of each report to the Commission as soon as possible or by **Friday, November 14, 2014**, to avoid further penalty. The reports should be mailed to:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ATTENTION: Accounting & Finance Division

As I stated yesterday, we cannot process a rate case until Kincaid Hills officially submits its annual reports for 2009-2013. If you have any additional questions, please do not hesitate to contact me.

Thank you,
Kelley

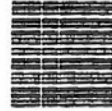
Kelley F. Corbari,
Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235



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Knowles 579
PO Box
Gainesville, FL 32604

SEATTLE
WA 980
07 NOV '14
PM 7 L



U.S. POSTAGE
PAID
PERMIT NO. 58023
NOV 07 '14
REGULANT

\$0.49
9087217-03

1000 32393

Florida Public Service Commission
Attn: Accounting & Finance Division
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0854
32399085499

Kelley Corbari

From: Kelley Corbari
Sent: Thursday, November 06, 2014 3:03 PM
To: berdell@alum.mit.edu
Cc: Michael Lawson; Adam Teitzman; Andrew Maurey
Subject: Kincaid Hills - Annual Reports Insufficient
Attachments: FAC Rule 25-30.110 - Annual Report Filing.pdf

Importance: High

Berdell -

I received all of your emails with Excel files of Kincaid's annual reports for 2009-2013 and I forwarded them onto our staff to be reviewing. I really appreciate your effort getting the reports to me. Unfortunately, however, the Excel files you emailed are insufficient because they do not comply with our rules governing annual reports. Pursuant to Rule 25-30.110, the Utility must submit **an original and 2 copies** of each Annual Report. In addition, **each report must be certified**, meaning the Certification page of each report must be signed by the Utility's CEO and CFO.

Therefore, please have the Utility's CEO (your father) sign and certify each of the Annual Reports. Once the reports have been certified, please mail the original and 2 copies of each report to the Commission as soon as possible or by **Friday, November 14, 2014**, to avoid further penalty. The reports should be mailed to:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
ATTENTION: Accounting & Finance Division

As I stated yesterday, we cannot process a rate case until Kincaid Hills officially submits its annual reports for 2009-2013. If you have any additional questions, please do not hesitate to contact me.

Thank you,
Kelley

Kelley F. Corbari,
Senior Attorney - Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234

Kelley Corbari

From: Kelley Corbari
Sent: Thursday, October 23, 2014 5:19 PM
To: berdell@alum.mit.edu
Cc: Adam Teitzman; Toni Earnhart; Michael Lawson; Andrew Maurey
Subject: Kincaid Hills - Initial Compliance Plan

Mr. Knowles,

Thank you for speaking with us today regarding Kincaid Hills Water Company's (Kincaid Hills) compliance issues and expressing your willingness to work with Commission staff on a comprehensive compliance plan for bringing the utility back into compliance with the Commission. To summarize our conversation:

- By November 7, 2014, Kincaid Hills will file its delinquent annual reports for the years 2009 – 2013, and submit payment in the amount of **\$8,690.15** to satisfy its delinquent 2010 and 2011 Regulatory Assessment Fees (RAFs).
 - Payment should be made payable to the "Florida Public Service Commission," and sent to "Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, ATTENTION: Fiscal Services."
 - Please include "WU690 RAF Payment" on the memo line of the payment.
- Kincaid will work with Commission staff on filing a Staff Assisted Rate Case. Commission staff will contact the Utility to assist with initiating the filing.
- Upon receipt of Kincaid Hills' annual reports and RAF payment, Commission staff and Kincaid will negotiate a plan for the payment of Kincaid Hills delinquent 2012 and 2013 RAFs.
- Penalties assessed for Kincaid Hills' failure to file its annual reports for the years 2009-2013, will be discussed at a later date.

Again, I appreciate your willingness to try to resolve the Utility's compliance issues. Should you have any questions or comments, please do not hesitate to contact me.

Sincerely,
Kelley Corbari

Kelley F. Corbari,
Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard

Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
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Kelley Corbari

From: Berdell Knowles, Jr. <berdell@alum.mit.edu>
Sent: Thursday, October 23, 2014 4:23 PM
To: Kelley Corbari
Subject: RE: Kincaid Hills Water Company - Compliance Delinquency

Great. I am a consultant, so I travel about 90% of the time. If at all possible, please email me a copy of anything you are sending via regular mail so that I can respond promptly.

Thanks.

-----Original Message-----

From: Kelley Corbari [mailto:KCorbari@psc.state.fl.us]
Sent: Thursday, October 23, 2014 1:20 PM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Michael Lawson
Subject: RE: Kincaid Hills Water Company - Compliance Delinquency

Thank you Berdell. We actually did have the correct PO box in the master system, however, I did have our clerk add your email to the contact information.

Kelley F. Corbari,
Senior Attorney - Regulatory Analysis Section Office of the General Counsel FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235

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-----Original Message-----

From: Berdell Knowles, Jr. [mailto:berdell@alum.mit.edu]
Sent: Thursday, October 23, 2014 4:18 PM
To: Kelley Corbari
Cc: Adam Teitzman; Michael Lawson
Subject: RE: Kincaid Hills Water Company - Compliance Delinquency

PO Box 579 was at the post office that closed a few years ago. You can delete that one, also.

-----Original Message-----

From: Kelley Corbari [mailto:KCorbari@psc.state.fl.us]
Sent: Thursday, October 23, 2014 11:31 AM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Michael Lawson
Subject: RE: Kincaid Hills Water Company - Compliance Delinquency

Thank you Berdell.

In addition to the 19th Avenue address, we had a different PO Box address on file (PO Box 579 Gainesville, FL 32602).
I will make sure the correct address is updated.

Kelley

Kelley F. Corbari,
Senior Attorney - Regulatory Analysis Section Office of the General Counsel FLORIDA PUBLIC SERVICE COMMISSION
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235

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-----Original Message-----

From: Berdell Knowles, Jr. [mailto:berdell@alum.mit.edu]
Sent: Thursday, October 23, 2014 2:13 PM
To: Kelley Corbari
Cc: Adam Teitzman; Michael Lawson
Subject: RE: Kincaid Hills Water Company - Compliance Delinquency

New address for Kincaid Hills Water Company

PO Box 15016
Gainesville, FL 32604

To my knowledge, there has never been a mailbox at the plant on 19th Avenue, so we would like to make sure no mail is directed there (only the address, above).

Thank you all, again.

-----Original Message-----

From: Kelley Corbari [mailto:KCorbari@psc.state.fl.us]
Sent: Thursday, October 23, 2014 9:36 AM
To: berdell@alum.mit.edu
Cc: Adam Teitzman; Michael Lawson
Subject: RE: Kincaid Hills Water Company - Compliance Delinquency

Great. Than you

From: Berdell Knowles, Jr. [berdell@alum.mit.edu]
Sent: Thursday, October 23, 2014 11:56 AM
To: Kelley Corbari
Cc: Adam Teitzman; Michael Lawson
Subject: RE: Kincaid Hills Water Company - Compliance Delinquency

Yes and yes.

I will be standing by for your call in an hour or so.

From: Kelley Corbari [mailto:KCorbari@psc.state.fl.us]
Sent: Thursday, October 23, 2014 8:45 AM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Michael Lawson
Subject: RE: Kincaid Hills Water Company - Compliance Delinquency
Importance: High

Mr. Knowles -

I just wanted to confirm our telephone call this afternoon at 1:00 pm EST (10:00a Pacific) to discuss Kincaid Hills Water Company's compliance issues.
Also, is (310) 821-1235 the best number to reach you?

Thank you,
Kelley

Kelley F. Corbari,
Senior Attorney - Regulatory Analysis Section Office of the General Counsel Florida Public Service Commission
Email: KCorbari@psc.state.fl.us<mailto:KCorbari@psc.state.fl.us>
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235

PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.

From: Kelley Corbari
Sent: Monday, October 20, 2014 4:57 PM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Michael Lawson
Subject: Kincaid Hills Water Company - Compliance Delinquency

Mr. Knowles,

Thank you for speaking with me today regarding Kincaid Hills Water Company's compliance status with the FPSC. Per our conversation, attached is a breakdown of the outstanding fees and reports due the Commission, including penalties and interest.

As I stated, the utility is required to file annual reports and pay Regulatory Assessment Fees to the Commission every year by March 31st .
(See attached, Florida Statutes, Sections 350.113 and 367.145, and Florida Administrative Code Rules 25-30.110 and 25-30.120.)

Additionally, below are links the information on the Commission's website you requested that pertain to Water companies, such as, Annual Reports, Regulatory Assessment Fees, Price Index & Pass Through applications, and Staff Assisted Rate Case application.

<http://www.floridapsc.com/utilities/waterwastewater/>

- Annual Reports & RAFs:
<http://www.floridapsc.com/utilities/waterwastewater/annualreport/index.aspx>
- 2014 Price Index and Pass Through Application:
<http://www.floridapsc.com/library/filings/14/01208-14/01208-14.pdf>
- Staff Assisted Rate Case Application Form

While you take the opportunity to review all the information I provided, I will look into the questions you posed. I appreciate your willingness to resolve this matter and I look forward to speaking to you again on Thursday, October 23rd at 1:00 pm (EST).

In the meantime, please do not hesitate to contact me if you have any additional comments or questions.

Thank you,
Kelley Corbari

Kelley F. Corbari,
Senior Attorney - Regulatory Analysis Section Office of the General Counsel Florida Public Service
Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us<mailto:KCorbari@psc.state.fl.us>
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235
[PSC-LOGO330]

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Kelley Corbari

From: Kelley Corbari
Sent: Monday, October 20, 2014 4:57 PM
To: 'berdell@alum.mit.edu'
Cc: Adam Teitzman; Michael Lawson
Subject: Kincaid Hills Water Company - Compliance Delinquency
Attachments: FAC Rule 25-30.110 (Annual Reports).pdf; FAC Rule 25-30.120 (RAFTs).pdf; FS 350.113 (RAFTs).pdf; FS 367.161 (Additional Compliance Penalties).pdf; FS 367.145 (RAFTs).pdf; Kincaid Hills - Delinquent RAFTs & ARs (Thru 11-20-14).pdf

Mr. Knowles,

Thank you for speaking with me today regarding Kincaid Hills Water Company's compliance status with the FPSC. Per our conversation, attached is a breakdown of the outstanding fees and reports due the Commission, including penalties and interest.

As I stated, the utility is required to file annual reports and pay Regulatory Assessment Fees to the Commission every year by March 31st. (See attached, Florida Statutes, Sections 350.113 and 367.145, and Florida Administrative Code Rules 25-30.110 and 25-30.120.)

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<http://www.floridapsc.com/utilities/waterwastewater/>

- Annual Reports & RAFTs: <http://www.floridapsc.com/utilities/waterwastewater/annualreport/index.aspx>
- 2014 Price Index and Pass Through Application: <http://www.floridapsc.com/library/filings/14/01208-14/01208-14.pdf>
- Staff Assisted Rate Case Application Form

While you take the opportunity to review all the information I provided, I will look into the questions you posed. I appreciate your willingness to resolve this matter and I look forward to speaking to you again on Thursday, October 23rd at 1:00 pm (EST).

In the meantime, please do not hesitate to contact me if you have any additional comments or questions.

Thank you,
Kelley Corbari

Kelley F. Corbari,

Senior Attorney – Regulatory Analysis Section
Office of the General Counsel
FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Email: KCorbari@psc.state.fl.us
Direct Phone: (850) 413-6234
Direct Fax: (850) 413-6235



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NOTICE OF NONCOMPLIANCE
Kincaid Hills Water Company (WU690)

EXHIBIT D

Kincaid Open Customer Complaints (2016-2017)

**Kincaid Hills Water Company
Open Customer Complaints
2016 - 2017**



1. **PSC Complaint No. 1242714W** Date: 05/08/2017
Customer: Paul Cohen
Complaint Subject: Improper Billing
Complaint Sent to Utility: 05/10/2017
Utility Response Due: 05/30/2017
Utility Response: None
Second Notice to Utility: 05/31/2017 *(via certified mail – received 06/03/2017)*
Utility Response: None

2. **PSC Complaint No. 1240114W** Date: 03/30/2017
Customer: Katherine Stemmler
Complaint Subject: Unable to Reach Utility
Complaint Sent to Utility: 03/30/2017
Utility Response Due: 04/20/2017
Utility Response: None
Second Notice to Utility: 05/10/2017 *(via regular mail)*
Utility Response: None
Third Notice to Utility: 05/31/2017 *(via certified mail – received 06/03/2017)*
Utility Response: None

3. **PSC Complaint No. 1225168W** Date: 10/13/2016
Customer: Bruce Doyle
Complaint Subject: Unable to Reach Utility – Contact Number Not Working
Complaint Sent to Utility: 10/13/2016
Utility Response Due: 11/03/2016
Utility Response: None
Late Notice Sent to Utility: 11/23/2016
Utility Response: None
Attempt to Contact Utility by Telephone: 12/07/2016 *(unsuccessful)*
Third Notice to Utility: 12/08/2016 *(via e-mail)*
Utility Response: None
Attempt to Contact Utility by Telephone: 03/01/2017 *(left message)*
Utility Response: 03/02/2017 *(Utility to contact customer 03/06/2017)*
Attempt to Contact Utility by Telephone: 05/08/2017
Utility Response: None
Fourth Notice to Utility: 05/10/2017 *(via regular mail)*
Utility Response: None
Fifth Notice to Utility: 05/31/2017 *(via certified mail – received 06/03/2017)*
Utility Response: None

Request No. <u>1242714W</u> Name <u>COHEN ,PAUL MR.</u> Business Name _____		
Consumer Information Name: PAUL COHEN Business Name: Svc Address: 3341 SE 19TH AVE County: Alachua Phone: (352)-231-3171 City/Zip: Gainesville / 32641- Account Number: 193341 Caller's Name: PAUL COHEN Mailing Address: 3341 SE 19TH AVE City/Zip: GAINESVILLE ,FL 32641- Can Be Reached: E-Tracking Number:	Florida Public Service Commission - Consumer Request 2540 Shumard Oak Boulevard Tallahassee, Florida 32399 850-413-6480 Utility Information Company Code: WU690 Company: KINCAID HILLS WATER COMPANY Attn. Berdell Knowles1242714W Response Needed From Company? Y Date Due: 05/30/2017 Fax: _____ R Interim Report Received: / / Reply Received: / / Reply Received Timely/Late: Informal Conf.: N	PSC Information Assigned To: REY CASTILLO Entered By: DC Date: 05/08/2017 Time: 14:54 Via: PHONE Prelim Type: IMPROPER BILLS PO: Disputed Amt: 0.00 Supmntl Rpt Req'd: / / Certified Letter Sent: / / Certified Letter Rec'd: / / Closed by: Date: / / Closeout Type: Apparent Rule Violation: N

Preclose Type - Improper Bills

Other Comments:

Customer from Kincaid Hills water company states that he no longer has service with the water company but keeps getting billed every month. Customer states he is being billed for water he is not using and states he should not be getting any bills. Customer states he contacted the company regarding this issue and states that he was not given an explanation.

Per Consumer Complaint Rule 25-22.032, please use the following procedures when responding to PSC complaints.
.. Complaint resolution should be provided to the customer via direct contact with the customer, either verbally or in writing within 15 working days after the complaint has been sent to the company.
2. A response to the PSC is due by 5:00 p.m. Eastern time, of the 15th working days after the complaint has

Request No. 1242714W Name COHEN ,PAUL MR. Business Name _____
PAGE NO: 1

been sent to the company.

3. The response should include the following:

- a) the cause of the problem
- b) actions taken to resolve the customer's complaint
- c) the company's proposed resolution to the complaint
- d) answers to any questions raised by staff in the complaint
- e) confirmation the company has made direct contact with the customer

4. Send your written response to the PSC, and copies of all correspondence with the customer to the following e-mail, fax, or physical addresses:

E-Mail - pscreply@psc.state.fl.us

Fax - 850-413-7168

Mail - 2540 Shumard Oak Blvd.

Tallahassee, Florida 32399-0850

Case taken by Daniel Chung.

05/10/17: Copy of complaint mailed to company at P.O Box 15016, Gainesville, FL 32604-5016. RRoland

05/30/2017: Will send a copy of complaint to company via certified mail. RRoland

05/31/17: Late letter sent to company via U.S. Mail, regular and certified. RRoland

06/05/2017: Received USPS return receipt showing that Mr. Berdell Knowles acknowledges receipt of FPSC correspondence on 06/03/17. Added to file. RRoland

Request No. 1242714W

Name COHEN ,PAUL MR.

Business Name

PAGE NO: 2

Request No. <u>1240114W</u> Name <u>STEMMLER, KATHERINE MS.</u> Business Name _____		
Consumer Information Name: KATHERINE STEMMLER Business Name: Svc Address: 2861 SE 18 AVE County: Alachua Phone: (352)-219-4086 City/Zip: Gainesville / 32641- Account Number: 182861 Caller's Name: KATHERINE STEMMLER Mailing Address: 5223 WEBER RD City/Zip: SAINT LOUIS, MO 63123 Can Be Reached: E-Tracking Number: 122723	Florida Public Service Commission - Consumer Request 2540 Shumard Oak Boulevard Tallahassee, Florida 32399 850-413-6480 Utility Information Company Code: WU690 Company: KINCAID HILLS WATER COMPANY Attn: Berdell Knowles 1240114W Response Needed From Company? y Date Due: 04/20/2017 Fax: R Interim Report Received: / / Reply Received: / / Reply Received Timely/Late: Informal Conf.: N	PSC Information Assigned To: SHONNA MCCRAY Entered By: DH Date: 03/30/2017 Time: 15:06 Via: E-FORM Prelim Type: QUALITY OF PO: Disputed Amt: 0.00 Supmntl Rpt Req'd: / / Certified Letter Sent: / / Certified Letter Rec'd: / / Closed by: Date: / / Closeout Type: Apparent Rule Violation: N

Please review the "incorporated" Internet correspondence, located between the quotation marks on this form, in which the customer reports the following:

"-----Original Message-----

From: consumerComplaint@psc.state.fl.us [mailto:consumerComplaint@psc.state.fl.us]

Sent: Thursday, March 30, 2017 2:59 PM

To: Consumer Contact

Subject: E-Form Other Complaint TRACKING NUMBER: 122723

CUSTOMER INFORMATION

Name: Katherine Stemmler

Telephone: (352) 219-4086

Email: katestemm@yahoo.com

Request No. <u>1240114W</u>	Name <u>STEMMLER, KATHERINE MS.</u>	Business Name _____
PAGE NO: 1		

Address: 5223 Weber Rd Mo MO 63123

BUSINESS INFORMATION

Business Account Name: Kincaid Hills Water Company Account Number: 182861
Address: 2861 SE 18 Ave Gainesville FL 32641

Water County Selected: Alachua

COMPLAINT INFORMATION

Complaint: Other Complaint against Kincaid Hills Water Company
Details:

I sold my house in Gainesville Florida on March 23 2017. I have attempted to contact Kincaid Hills Water Company several times to transfer service to the new owners of the house. I still have yet to hear from Kincaid Hills Water. "

Per Consumer Complaint Rule 25-22.032, please use the following procedures when responding to PSC complaints.

1. Complaint resolution should be provided to the customer via direct contact with the customer, either verbally or in writing, within 15 working days after the complaint has been sent to the company.
2. A response to the PSC is due by 5:00 p.m. Eastern time, of the 15th working day after the complaint has been sent to the company.
3. The response should include the following:
 - a) the cause of the problem
 - b) actions taken to resolve the customer's complaint
 - c) the company's proposed resolution to the complaint
 - d) answers to any questions raised by staff in the complaint
 - e) confirmation that the company has made direct contact with the customer

4. Send your written response to the PSC, and copies of all correspondence with the customer to the following e-mail, fax or physical addresses:

E-Mail - pscreply@psc.state.fl.us
Fax - 850-413-7168
Mail - 2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Case taken by Diane Hood

Request No. 1240114W	Name STEMLER ,KATHERINE MS.	Business Name
----------------------	-----------------------------	---------------

PAGE NO: 2

/3/17: NOTE: it appears the company has violated PSC rules---failure to provide response to customer and/or SC within 15 days. Shonna McCray

/3/17: ATTN COMPANY:

OUR RESPONSE IS PAST DUE. PLEASE PROVIDE RESPONSE BY 5/12/17. Shonna McCray

5/10/17: Copy of complaint mailed to company at P.O Box 15016, Gainesville, FL 32604-5016. RRoland

5/30/2017: Will send a copy of complaint to company via certified mail. RRoland

5/31/17: Late letter sent to company via U.S. Mail, regular and certified. RRoland

6/05/2017: Received USPS return receipt showing that Mr. Berdell Knowles acknowledges receipt of FPSC correspondence on 06/03/17. Added to file. RRoland

Request No. 1240114W Name STEMLER, KATHERINE MS. Business Name _____
PAGE NO: 3

Request No. <u>1225168W</u> Name <u>DOYLE ,BRUCE MR.</u> Business Name _____		
Consumer Information Name: BRUCE DOYLE Business Name: Svc Address: 2881 SE 20TH AVE County: Alachua Phone: (352)-377-1659 City/Zip: Gainesville / 32641- Account Number: 202881 Caller's Name: BRUCE DOYLE Mailing Address: 2881 SE 20TH AVE City/Zip: GAINESVILLE ,FL 32641- Can Be Reached: E-Tracking Number:	Florida Public Service Commission - Consumer Request 2540 Shumard Oak Boulevard Tallahassee, Florida 32399 850-413-6480	PSC Information Assigned To: REY CASTILLO Entered By: CD Date: 10/13/2016 Time: 15:55 Via: PHONE Prelim Type: REPAIR PO: Disputed Amt: 0.00
	Utility Information Company Code: WU690 Company: KINCAID HILLS WATER COMPANY Attn. Berdell Knowles1225168W Response Needed From Company? y Date Due: 11/03/2016 Fax: R	Supmntl Rpt Req'd: / / Certified Letter Sent: / / Certified Letter Rec'd: / /
	Interim Report Received: / / Reply Received: / / Reply Received Timely/Late: Informal Conf.: N	Closed by: Date: / / Closeout Type: Apparent Rule Violation: N
	ther Comments: Customer is concerned because Kincaid Water company telephone number is not operating and f there is a water emergency then their is no one to contact. The number that is normal is (352) 373-0729 ut the operator says it is temporarily disconnected.	
er Consumer Complaint Rule 25-22.032, please use the following procedures when responding to PSC omplaints. Complaint resolution should be provided to the customer via direct contact with the customer, either verbally or in writing within 15 working days after the complaint has been sent to the company. A response to the PSC is due by 5:00 p.m. Eastern time, of the 15th working days after the complaint as been sent to the company. The response should include the following: a) the cause of the problem		
Request No. <u>1225168W</u> Name <u>DOYLE ,BRUCE MR.</u> Business Name _____		
PAGE NO: 1		

b) actions taken to resolve the customer's complaint
c) the company's proposed resolution to the complaint
d) answers to any questions raised by staff in the complaint
e) confirmation the company has made direct contact with the customer
. Send your written response to the PSC, and copies of all correspondence with the customer to the following e-mail, fax, or physical addresses:
-Mail - pscreply@psc.state.fl.us
fax - 850-413-7168
mail - 2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

case taken by Kenny Davis

1/23/16 LATE NOTICE - THE PSC HAS NOT RECEIVED A COMPANY RESPONSE. R.Castillo

2/07/2016 I attempted to contact Kincaid Hills Water Company at telephone numbers at (352) 373 - 0729 and emergency telephone number (352) 443 - 5492 but was not able to reach anyone but was able to leave voicemail message. R.Castillo

2/08/2016 I sent an email to Berdell Knowles at Berdell@alum.mit.edu asking him if he received the complaint or the late notice for the company response and also informed him that I left voicemail messages at telephone numbers (352) 373 - 0729 and (352) 443 - 5492. R.Castillo

2/08/16 Sent the following email to Berdell Knowles:

From: Rey Castillo
Sent: Thursday, December 08, 2016 8:20 AM
To: 'berdell@alum.mit.edu'
Cc: Randy Roland
Subject: Company Response

Re: FPSC Complaint #1225168W Doyle, Bruce

Berdell Knowles,
Good morning this is Rey Castillo from the Florida Public Service Commission.

Back on 10/13/2016 this complaint was sent to you.

Customer is concerned because Kincaid Water company telephone number is not operating and if there is a

Request No.	Name	Business Name
1225168W	DOYLE, BRUCE MR.	

PAGE NO: 2

After emergency then there is no one to contact. The number that is normal is (352) 373-0729 but the operator says it is temporarily disconnected.

also sent a late notice on 11/23/2016, did you receive the complaint or the late notice for the company response?

also left two voicemail messages yesterday, one at telephone number (352) 373 - 0729 and another at emergency telephone number (352) 443 - 5492.

Respectfully,

Randy Castillo
Regulatory Specialist
Consumer Assistance and Outreach
Office Telephone (850) 413-6119

mail message entered by R.Castillo

3/01/2017 10:50 a, I attempted to contact Kincaid Hills Water Company at telephone numbers at (352) 373 - 729 and emergency telephone number (352) 443 - 5492 but was not able to reach anyone but I was able to leave voicemail messages requesting a return call. R.Castillo

3/02/2017 Mr. Knowles returned my call. Mr. Knowles stated that he never received this complaint. Mr. Knowles stated that they are very small water utility and do not receive many complaints via email. Mr. Knowles requested that I send him a hard copy of complaint. I requested that Mr. Knowles make direct contact with the customer either by telephone or send the customer a letter in response to his inquiry. Mr. Knowles stated that he plans to contact customer on Monday 03/06/2017. R.Castillo

5/08/17: I tried calling Kincaid Hills Water Company, but reached voice mail. I left a message requesting a return call. RRoland

*****05/10/17: Mr. Berdell Knowles called. Said he did not get copy of complaint. Advised that I will mail a copy of the complaint to him. He requests that any future customer complaint be routed to him via U.S. Mail. RRoland
From: Rhonda Hicks
Sent: Tuesday, April 25, 2017 2:33 PM
To: Randy Roland
Subject: FW: FL. PSC CATS NO: 1225168W BRUCE DOYLE

Request No. 1225168W	Name DOYLE ,BRUCE MR.	Business Name
----------------------	-----------------------	---------------

PAGE NO: 3

rom: Greg Shafer
ent: Thursday, April 20, 2017 8:04 AM
o: Rhonda Hicks
ubject: FW: FL. PSC CATS NO: 1225168W BRUCE DOYLE

honda,
can't tell if we ever responded to this but we do not have any alternative contact info. As Patti noted
elow if there is some level concern that the system is not being properly monitored then DEP or FRWA
ould be contacted.

r. Knowles has been around a long time and is usually pretty cooperative but he tends to move on his own
ime.

reg

rom: Patti Daniel
ent: Friday, April 14, 2017 10:11 PM
o: Greg Shafer
c: Shannon Hudson
ubject: Re: FL. PSC CATS NO: 1225168W BRUCE DOYLE

o. If we're concerned someone should call DEP or FRWA.

ent from my iPad

n Apr 14, 2017, at 9:19 PM, Greg Shafer <GShafer@PSC.STATE.FL.US> wrote:

ny info on this?

egin forwarded message:

rom: Rhonda Hicks <RHicks@PSC.STATE.FL.US>
ate: April 14, 2017 at 1:03:44 PM EDT
o: Greg Shafer <GShafer@PSC.STATE.FL.US>
ubject: FW: FL. PSC CATS NO: 1225168W BRUCE DOYLE
ee below. Do we have any alternate contact information for this company? They are not responding?

rom: Randy Roland
ent: Friday, April 14, 2017 11:26 AM

request No.	1225168W	Name	DOYLE ,BRUCE MR.	Business Name	
AGE NO:	4				

Re: Rhonda Hicks

Subject: FW: FL. PSC CATS NO: 1225168W BRUCE DOYLE

Company is not responding to this complaint. Can we forward?

10/10/17: Copy of complaint mailed to company at P.O Box 15016, Gainesville, FL 32604-5016. RRoland

10/30/17: Company has not responded. See notes above. Complaint Closed. Failure to respond to PSC.
Roland

10/30/17: Complaint reopened. Will forward to company via certified mail. RRoland

10/31/17: Late letter sent to company via U.S. Mail, regular and certified. RRoland

11/05/2017: Received USPS return receipt showing that Mr. Berdell Knowles acknowledges receipt of FPSC
correspondence on 06/03/17. Added to file. RRoland

Request No. 1225168W

Name DOYLE, BRUCE MR.

Business Name

AGE NO: 5

Item 4

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (Golden, Wilson)
Division of Economics (Johnson)
Division of Engineering (Thompson, Wooten)
Office of the General Counsel (Cuello)

Handwritten notes and signatures:
- "SAC" in blue ink next to "Office of the General Counsel".
- "CW" in purple ink above "Division of Accounting and Finance".
- "ALM" in purple ink above "Division of Economics".
- "ms" in purple ink above "Division of Engineering".
- "W" in blue ink above "Office of the General Counsel".
- "ST" in blue ink above "Division of Accounting and Finance".
- "TV" in blue ink above "Office of the General Counsel".
- "CAS" in blue ink above "Office of the General Counsel".

RE: Docket No. 20160176-WS – Application for staff-assisted rate case in Polk County by Four Lakes Golf Club, Ltd.

AGENDA: 11/07/17 – Regular Agenda – Proposed Agency Action - Except for Issues 11, 12, and 13 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: 12/26/17 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS: None

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Case Background

Four Lakes Golf Club, Ltd. (Four Lakes or Utility) is a Class C water and wastewater utility serving approximately 826 water and 819 wastewater customers in Polk County. The Utility serves the Four Lakes Golf Club manufactured home community and golf course. Four Lakes' service territory is located in the Southwest Florida Water Management District, where water use restrictions apply. The Utility's 2016 Annual Report shows total gross revenues of \$144,201 for water and \$142,860 for wastewater, with net operating losses of \$5,272 and \$56,657 for water and wastewater, respectively.

Four Lakes has been in existence since 1995. Four Lakes was originally under the jurisdiction of Polk County, but was not franchised by the County because the Polk County Board of County Commissioners (PCBCC) considered the systems' operations to be governed by Chapter 723, Florida Statutes (F.S.), which provides regulatory guidelines for mobile home parks with rented or leased lots. Effective May 14, 1996, the PCBCC transferred jurisdiction to the Florida Public Service Commission (Commission or PSC). It was subsequently determined that Four Lakes did not qualify for a non-jurisdictional finding or exemption from Commission regulation. The Utility was granted grandfather Certificate Nos. 608-W and 524-S in 1999.¹ The Utility's current rates have been in effect since November 30, 1998.

On July 27, 2016, Four Lakes filed an application for a staff-assisted rate case (SARC). The official filing date for this case is September 26, 2016. Staff selected the 12-month period ended August 31, 2016, as the test year for the instant case. On June 29, 2017, a customer meeting was held at the Chain O'Lakes Complex within Four Lakes' service territory to receive customer comments concerning quality of service. The Commission has jurisdiction in this case pursuant to Sections 367.011, 367.081(8) and (9), 367.0814, 367.101, and 367.121, Florida Statutes (F.S.).

¹Order No. PSC-99-1236-PAA-WS, issued June 22, 1999, in Docket No. 19981340-WS, *In re: Application for grandfather certificates to operate water and wastewater utility in Polk County by Four Lakes Golf Club, Ltd.*

Date: October 26, 2017

Discussion of Issues

Issue 1: Is the quality of service provided by Four Lakes Golf Club, Ltd. satisfactory?

Recommendation: Yes. Staff recommends that the overall quality of service provided by the Utility be considered satisfactory. (Wooten, Thompson)

Staff Analysis: Pursuant to Section 367.081(2)(a)1, F.S., in water and wastewater rate cases, the Commission shall consider the overall quality of service provided by a utility. Rule 25-30.433(1), Florida Administrative Code (F.A.C.), provides for the evaluation of three separate components of the utility's operations. The components evaluated are: (1) the quality of the utility's product; (2) the operating conditions of the utility's plant and facilities; and (3) the utility's attempt to address customer satisfaction. The Rule further states that sanitary surveys, outstanding citations, violations, and consent orders on file with the Department of Environmental Protection (DEP) and the county health department over the preceding three-year period shall be considered. Additionally, Section 367.0812(1)(c), F.S., requires the Commission to consider the extent to which the utility provides water service that meets secondary water quality standards as established by the DEP.

Quality of Utility's Product

In evaluating Four Lakes' water quality, staff reviewed the Utility's compliance with the DEP primary and secondary drinking water standards. Primary standards protect public health while secondary standards regulate contaminants that may impact the taste, odor, and color of drinking water. Staff reviewed the most recent chemical analysis of samples dated July 8, 2015. All of the contaminants were below the maximum contaminant level set by the DEP.

Operating Condition of the Utility's Plant and Facilities

The Utility is located in the water use caution area of the Southwest Florida Water Management District. Staff visited the facility and completed a site inspection on June 29, 2017. Four Lakes' water system has two wells, rated at 550 gallons per minute (gpm) and 460 gpm and has one hydropneumatic water tank totaling 15,000 gallons in capacity. There are 27 fire hydrants present throughout the service area and the distribution system is comprised of varying sizes of polyvinyl chloride (PVC) pipes. Staff reviewed the Utility's last DEP Sanitary Survey, dated September 14, 2016, and the facility was determined to be in compliance with the DEP's rules and regulations.

The wastewater system is an extended aeration domestic wastewater treatment facility with a permitted plant capacity of 98,500 gallons per day (gpd) based on a Three-Month Rolling Average Daily Flow. This facility is operated to provide secondary treatment with basic disinfection. The DEP's comprehensive evaluation of a wastewater facility's overall compliance status is based on review of past monitoring data and results from inspections, such as its compliance evaluation inspection (CEI). On April 5, 2016, the DEP conducted a CEI designed to verify the Utility's compliance with applicable requirements and compliance schedules for chemical and biological self-monitoring programs. During the inspection, the DEP noted groundwater quality deficiencies with Total Dissolved Solids (TDS), pH, and nitrate levels. Both the TDS and pH deficiencies were corrected and DEP stated that the Utility is currently in

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compliance in regards to groundwater quality. The increased presence of nitrates in the groundwater testing was determined to be caused by an outside source beyond the Utility's control. In order to prevent any further contamination, the Utility abandoned and relocated the monitoring location and educated the residents on proper use of fertilizer, herbicides and pesticides.

The Utility's Attempt to Address Customer Satisfaction

On June 29, 2017, a customer meeting was held at the Chain O'Lakes Complex within Four Lakes' service territory to receive customer comments concerning quality of service. There were approximately 15 customers in attendance, one of whom made comments. The customer stated that he found the rate increase reasonable and had no complaints about the Utility.

Staff requested copies of complaints filed against Four Lakes with the DEP for the test year and the prior four years. The DEP stated that no complaints have been received in the five-year period. Staff also requested complaints from the Utility for the test year and the prior four years as well, and the Utility stated that none had been received during this time period. The Commission's Consumer Activity Tracking System recorded one complaint during the past five years, related to improper billing on October 30, 2014. This issue was resolved in a timely and adequate manner. There were no other complaints received by either the Commission or the DEP.

Conclusion

The Utility has taken reasonable actions to comply with the DEP's regulations and to address customer concerns. Staff recommends that the quality of service provided by the Utility be considered satisfactory.

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Issue 2: What are the used and useful percentages (U&U) of Four Lakes' water treatment plant (WTP), wastewater treatment plant (WWTP), and distribution and collection systems?

Recommendation: Four Lakes' WTP, water distribution system, WWTP, and wastewater collection system should all be considered 100 percent U&U. There is no excessive infiltration and inflow. Staff recommends a 7.2 percent adjustment to purchased power and chemical expenses be made for excessive unaccounted for water. (Wooten, Thompson)

Staff Analysis: Four Lakes' WTP has two wells rated at a combined 1,010 gpm. There are 27 fire hydrants present throughout the service area. The distribution system is comprised of varying sizes of PVC pipes. Four Lakes' WWTP is permitted by the DEP as a 98,500 gpd facility. According to the Utility, its wastewater collection system is comprised of 28,127 feet of 8 inch PVC collecting mains and 2,933 feet of force mains. There are 127 manholes present throughout the service area.

Excessive Unaccounted For Water

Rule 25-30.4325, F.A.C., defines excessive unaccounted for water (EUW) as "unaccounted for water in excess of 10 percent of the amount produced." Unaccounted for water is all water produced that is not sold, metered, or accounted for in the records of the utility. In determining whether adjustments to plant and operating expenses are necessary in accordance with Rule 25-30.4325(10), F.A.C., staff considers several factors. These include (1) the causes of EUW, (2) any corrective action taken, or (3) the economical feasibility of a proposed solution. EUW is calculated by subtracting both the gallons sold to customers and the gallons used for other services, such as flushing, from the total gallons pumped for the test year.

The Monthly Operating Reports that the Utility files with the DEP indicates that the Utility treated 83,994,001 gallons during the test year. In response to a staff data request, the Utility indicated that it purchased no water and used 855,000 gallons for other uses during the test year. According to the staff audit report, the Utility sold 68,658,866 gallons of water for the test year. When both the gallons sold and water used for other uses is subtracted from the total gallons pumped, 14,480,135 gallons are unaccounted for. The formula for unaccounted for water is given by gallons of unaccounted for water / (total gallons pumped + gallons purchased). The resulting unaccounted for water is 17.2 percent and the excessive unaccounted for water is 7.2 percent or approximately 6,080,735 gallons.

Accordingly, staff recommends a corresponding adjustment to purchased power and chemical expenses due to EUW. The Utility states that the current meters are of various ages and many meters are not working or capturing all of the water usage resulting in this EUW value. As discussed in Issue 3, the Utility plans to rectify the problem by replacing meters in its service territory.

Infiltration and Inflow

Rule 25-30.432, F.A.C., provides that in determining the amount of U&U plant, the Commission will consider infiltration & inflow (I&I). Infiltration typically results from groundwater entering a wastewater collection system through broken or defective pipes and joints; whereas inflow results from water entering a wastewater collection system through manholes or lift stations. The

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allowance for infiltration is 500 gpd per inch diameter pipe per mile, and an additional 10 percent of water sold is allowed for inflow. In addition, adjustments to operating expenses, such as chemical and electrical costs, are considered necessary if excessive. Excessive I&I is a calculation that is based on a comparison of the allowable wastewater treated to the actual amount of wastewater treated.

Using the pipe lengths of the Utility's collection system, the infiltration allowance is calculated to be 5,321,188 gallons per year. Ten percent of the total gallons sold to customers is allowed for inflow, which totals 6,865,886 gallons. The total I&I allowance is then calculated as 12,187,074 gallons per year.

The amount of wastewater expected to be returned from the system is calculated. This figure is determined by summing 80 percent of water sold to residential users with 90 percent of water sold to non-residential users. The amount calculated for expected return is 55,043,600 gallons per year. In order to find the total amount of wastewater allowed, the I&I allowance and the expected return are summed, yielding 67,230,633 gallons per year. Finally, this total is compared to the total wastewater actually treated during the test year, which in this case is 24,779,000 gallons. The actual amount does not exceed the allowable amount, therefore there is no excessive I&I.

Used and Useful Percentages

This is the Utility's first staff assisted rate case since receiving its grandfather certificates in 1999.² Therefore, this is the first determination of used and useful percentages by the Commission.

Water Treatment Plant

Four Lakes' water service territory covers approximately 670 acres. The WTP is a closed system with two wells rated at 550 and 460 gpm and permitted capacity at 1,304,000 gpd. There are 27 fire hydrants located throughout the service area which must meet a minimum of 500 gpm for a four-hour period of time. The formula for calculating U&U for the WTP is given by $[2 \times (\text{Maximum Day Peak Demand} - \text{EUW}) + \text{Fire Flow} + \text{Growth}] / \text{Firm Reliable Capacity}$. Max Day Peak Demand is 269 gpm. As previously noted, there is EUW of 6,080,735 gallons which results in a value of 11.6 gpm. Fire Flow is 500 gpm according to Rule 25-30.4325(1)(c), F.A.C. Using the linear regression formula, there is no estimated growth over the statutory five-year growth period. Firm Reliable Capacity assumes loss of the largest capacity well (550 gpm) and is therefore 460 gpm. This calculation results in a U&U greater than 100 percent, as such, staff recommends the WTP be considered 100 percent U&U.

Water Distribution

The water distribution system is evaluated based on equivalent residential connections (ERCs) consisting of growth, customer demand, and system capacity. As noted above, the system has no estimated growth. The customer demand is 863 ERCs (863 ERCs is the sum of the 813 residential customers and 13 general service customers which equal 50 ERCs) for the test year.

²Order No. PSC-99-1369-CO-WS, issued July 15, 1999, in Docket No. 19981340-WS, *In re: Application for grandfather certificates to operate water and wastewater utility in Polk County by Four Lakes Golf Club, Ltd.*

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The system capacity is 873 ERCs, resulting in a U&U percentage of 99 percent for the distribution system. The system is considered built out and over 95 percent U&U therefore consistent with prior Commission practice, staff recommends it be considered 100 percent U&U.³

Wastewater Treatment Plant

The formula for calculating U&U for the WWTP is given by (actual flows + growth – excessive I&I) / permitted plant capacity. The average daily flow for Four Lakes is 87,690 gpd. There is no excessive I&I and no growth based on a linear regression. The permitted capacity of the plant is 98,500 gpd. Based on staff's calculation, the resulting U&U for the WWTP is 89 percent. As the system is built out, staff recommends a U&U amount of 100 percent for the WWTP.

Wastewater Collection

The wastewater collection system is evaluated based on ERCs consisting of growth, customer demand, and system capacity. Based upon a linear regression formula there is no estimated customer growth over the statutory five-year growth period. The customer demand is 826 ERCs (826 ERCs is the sum of the 813 residential customers and 6 general service customers equal to 13 ERCs) for the test year, with a system capacity of 843 ERCs, resulting in a U&U percentage of 98 percent for the distribution system. As there has been no customer growth and the system is built out, staff recommends a U&U amount of 100 percent for the wastewater collection system.

Conclusion

Four Lakes' WTP, WWTP, water distribution system and wastewater collection system should all be considered 100 percent U&U. There is no excessive infiltration and inflow and staff recommends a 7.2 percent adjustment to purchased power and chemical expenses should be made for excessive unaccounted for water.

³Order No. PSC-12-0357-PAA-WU, issued July 10, 2012, in Docket No. 20100048-WU, *In re: Application for increase in water rates in Marion County by Sunshine Utilities of Central Florida, Inc.*

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Issue 3: What is the appropriate average test year rate base for Four Lakes?

Recommendation: The appropriate average test year rate base for Four Lakes is \$331,883 for water and zero for wastewater. Four Lakes should complete the pro forma items within 12 months of the issuance of the consummating order. If the Utility encounters any unforeseen events that will impede the completion of the pro forma items, the Utility should immediately notify the Commission in writing. Also, the Utility should be required to submit a copy of the final invoices and proof of payment for all pro forma plant items. (Golden, Wilson, Wooten, Thompson)

Staff Analysis: The appropriate components of the Utility's rate base include utility plant in service, land, contributions-in-aid-of-construction (CIAC), accumulated depreciation, amortization of CIAC, and working capital. Rate base has never been established for this Utility. Staff selected the 12-month period ended August 31, 2016, as the test year for the instant case. Commission audit staff determined that the Utility's books and records are in compliance with the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA). A summary of each component of rate base and the recommended adjustments are discussed below.

Utility Plant in Service (UPIS)

The Utility recorded UPIS of \$704,613 for water and \$1,373,940 for wastewater. Based on audit staff's review of the Utility's existing documentation, UPIS should be decreased by net adjustments of \$147,257 for water and \$366,532 for wastewater to reflect the supported UPIS test year balances. The Utility continued to research its records after the audit, and located an additional \$21,086 in supporting documentation for the well pump replacement for potable well #2 that occurred during the test year. Therefore, staff decreased UPIS by \$126,171 (\$147,257 - \$21,086) for water and \$366,532 for wastewater. In addition, staff decreased the water account by \$3,762 to reflect the retirement of the replaced well pump based upon a review of the available original cost documentation. Staff notes that the Utility has retained engineering services from the same professional engineer since the Utility's facilities were first constructed. Staff believes the Utility may be more successful in documenting the unsupported plant through an original cost study conducted by or in consultation with the professional engineer who is familiar with the facilities. In the event the Utility decides to conduct an original cost study, staff recommends that the Commission authorize Four Lakes to record any costs it incurs for conducting an original cost study in the future to Account 186 Miscellaneous Deferred Debits pending Commission review in a future rate proceeding.

Staff is also recommending several adjustments related to pro forma plant additions. Staff increased water UPIS by \$1,200 to reflect a pro forma chlorinator replacement that occurred after the test year. Staff also decreased the water account by \$161 to reflect the retirement of the replaced chlorinator based upon a review of the available original cost documentation. In addition, Four Lakes requested consideration of two pro forma projects in this rate case to replace a hydropneumatic water tank and all of the Utility's water meters. Recently, the Utility also requested consideration of an emergency well repair for potable well #1.

Four Lakes plans to replace a hydropneumatic water tank by the end of 2017. The Polk County Health Department (PCHD), acting on behalf of the DEP, requires the Utility to have the tank

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inspected every five years. After the most recent tank inspection in late 2016, Four Lakes was advised by an independent contractor that the tank should be rehabilitated or replaced. The tank is the original tank that was placed into service in 1994 when the Utility was constructed. The Utility states that it approached several vendors about the tank replacement project but only received one quote.⁴ The Utility also requested proposals from two more companies regarding rehabilitation of the tank but did not receive any quotes. The Utility was ultimately advised by a representative of the Florida Rural Water Association (FRWA) that due to the age and nature of the tank usage, the tank should be replaced rather than rehabilitated. Based on staff's review of the requested tank replacement, staff recommends it as appropriate and prudent.

According to the Utility, the current meters are the original meters and many meters are not working or capturing all of the water usage, which resulted in a recommended EUW adjustment of 7.2 percent. Therefore, the Utility plans to replace approximately 827 meters in 2017 in an effort to address unaccounted for water discussed in Issue 2. As of September 2017, the Utility has replaced approximately 700 meters and plans to have replaced all of its meters by the end of October.

The new meters are remote read meters, allowing automatic direct readings of the meters. These meters are currently in use at one of the Utility's other properties so it already possesses the necessary meter reading equipment. The replacement cost is \$210.54 per residential meter with a higher cost for larger general service meters. The Utility also plans to replace the meter boxes on an as needed basis, but estimates replacing 100 meter boxes at a cost of \$25.00 per meter box. The Utility obtained one bid from the company that provided the meter reading equipment to ensure compatibility with the new meters. Comparing the cost of the meter replacements to industry standards and another similarly sized water utility, staff recommends the requested meter installation charge is reasonable.⁵ Staff therefore recommends the meter replacement project as appropriate and prudent.

On October 6, 2017, staff was informed that the 550 gpm rated well failed which required the replacement of the pump, shaft, and assembly. This well is run in tandem with the Utility's second well and is needed to run at full operational capacity. This failure required an emergency evaluation, therefore, the Utility requested the repair service from a vendor that has prior successful experience working on Four Lakes' wells. The replacement is expected to be completed by the end of October 2017. Based on staff's review of the requested replacement, staff recommends it as appropriate and prudent.

As shown in Table 3-1 below, the net increase to water UPIS to reflect the pro forma hydropneumatic tank replacement, meter replacement projects, and well pump replacement is \$279,800, which includes the associated retirements estimated by staff based on the available records. There are no retirements reflected for the hydropneumatic tank and well pump replacements because the original costs for those items were already removed in the unsupported plant adjustment discussed above. Also, the Utility's existing records only reflect one well pump,

⁴Document No. 05678-2017, filed on July 3, 2017, in Docket No. 20160176-WS.

⁵Order No. PSC-16-0537-PAA-WU, issued November 23, 2016, in Docket No. 20150181-WU, *In re: Application for staff-assisted rate case in Duval County by Neighborhood Utilities, Inc.*

and staff is recommending that it be retired in association with the test year pump replacement for well #2 discussed above. Further, the retirement for meter replacements is limited to the balance remaining in Account 334 following the unsupported plant adjustment.

Table 3-1
Pro Forma Plant Items

Project	Acct. No.	Description	Amount
Hydropneumatic Tank Project	330	Replace hydropneumatic water tank	\$ 72,864
Meter Replacement Project	334	Install new water meters & meter boxes	193,499
	334	Retire replaced meters & boxes	(6,740)
Well Pump Replacement	311	Replace well pump, shaft and assembly	20,177
Net Increase			<u>\$279,800</u>

Source: Responses to staff data requests

Staff notes that pro forma plant additions are often addressed using a phased approach. However, staff does not believe a phased approach is necessary in this case because it is anticipated that all of the projects will be completed by the end of this year, prior to the effective date of any rates that may be approved by the Commission in this docket. Further, the Utility has already begun work on each project and has made significant progress toward completing the projects. Four Lakes should complete the pro forma projects within 12 months of the issuance of the consummating order. If the Utility encounters any unforeseen events that will impede the completion of the pro forma items, the Utility should immediately notify the Commission in writing. Also, the Utility should be required to submit a copy of the final invoices and proof of payment for all pro forma plant items.

Finally, staff decreased UPIS by \$27,113 for water and \$3,633 for wastewater to reflect an averaging adjustment for additions made during the test year. Consistent with Commission practice, no averaging adjustments are applied to pro forma additions. Staff's adjustments to UPIS are a net increase of \$123,794 to water and a decrease of \$370,165 to wastewater. Therefore, staff recommends a UPIS balance of \$828,407 for water and \$1,003,775 for wastewater.

Land and Land Rights

The Utility recorded land of \$38,979 for water and \$70,004 for wastewater. Staff determined that no adjustments are necessary. Therefore, staff recommends a land and land rights balance of \$38,979 for water and \$70,004 for wastewater.

Non-Used and Useful Plant

As discussed in Issue 2, Four Lakes' WTP, water distribution system, WWTP, and wastewater collection system are considered 100 percent U&U. Therefore, no U&U adjustments are necessary.

Contribution in Aid of Construction (CIAC)

The Utility recorded test year CIAC of \$507,425 for water and \$985,153 for wastewater. The Utility does not have the original supporting documents for the CIAC collections. However,

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pursuant to Order No. PSC-99-1236-PAA-WS that granted grandfather certificates to Four Lakes, the Commission authorized the Utility to continue collecting its existing combined water and wastewater plant capacity charge of \$1,818 per mobile home connection.⁶ According to the Utility's annual reports, the last CIAC was collected in 2002. Further, the total CIAC reported is consistent with the Utility's approved tariff and customer base. Therefore, staff recommends that no adjustments are necessary. Further, because no activity occurred during the test year, no averaging adjustments are necessary for ratemaking purposes. Staff recommends CIAC balances of \$507,425 for water and \$985,153 for wastewater.

Accumulated Depreciation

The Utility recorded test year accumulated depreciation balances of \$445,837 for water and \$920,248 for wastewater as of December 31, 2015. In order to reflect the appropriate test year balances as of August 31, 2016, staff calculated accumulated depreciation using the prescribed rates set forth in Rule 25-30.140, F.A.C. Staff decreased accumulated depreciation by \$132,018 for water and \$242,997 for wastewater to reflect the appropriate test year balances following the removal of unsupported plant as discussed above. In addition, staff decreased the water account by \$3,762 to reflect the retirement of the well pump that was replaced during the test year. Staff increased the water account by \$61 to reflect the pro forma chlorinator replacement, and decreased the water account by \$161 to reflect the associated retirement. Staff also increased the water account by \$2,208 and \$10,986 to reflect the pro forma replacements of the hydropneumatic tank and water meters, respectively. In addition, staff decreased the water account by \$6,740 to reflect the retirement associated with the meter replacement project. Further, staff increased the water account by \$1,187 to reflect the pro forma replacement of the well pump, shaft and assembly. Finally, staff decreased accumulated depreciation by \$6,650 for water and \$12,597 for wastewater to reflect a test year averaging adjustment. Staff's adjustments are net decreases of \$134,889 and \$255,594 to water and wastewater, respectively. Therefore, staff recommends accumulated depreciation balances of \$310,948 for water and \$664,654 for wastewater.

Accumulated Amortization of CIAC

Four Lakes recorded amortization of CIAC balances of \$300,427 for water and \$583,996 for wastewater as of December 31, 2015. Staff calculated the accumulated amortization of CIAC using the composite rates calculated in accordance with Rule 25-30.140(9)(b) and (c), F.A.C. In order to reflect the appropriate test year balances as of August 31, 2016, staff decreased the amortization of CIAC by \$28,482 for water and \$24,698 for wastewater. In addition, staff decreased these accounts by \$7,406 for water and \$12,281 for wastewater to reflect an averaging adjustment, resulting in net decreases of \$35,888 and \$36,979 for water and wastewater, respectively. Therefore, staff recommends accumulated amortization of CIAC balances of \$264,539 for water and \$547,017 for wastewater for the test year.

Working Capital Allowance

Working capital is defined as the short-term investor-supplied funds that are necessary to meet operating expenses of the Utility. Consistent with Rule 25-30.433(2), F.A.C., staff used the one-

⁶Issued June 22, 1999, in Docket No. 981340-WS, *In re: Application for grandfather certificates to operate water and wastewater utility in Polk County by Four Lakes Golf Club, Ltd.*

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eighth of the operation and maintenance (O&M) expense formula approach for calculating the working capital allowance. Staff also removed the unamortized balance of rate case expense of \$1,371 for water and \$1,344 for wastewater pursuant to Section 367.081(9), F.S.⁷ Applying this formula, staff recommends a working capital allowance of \$18,331 ($\$146,651/8$) for water, based on the adjusted O&M expense of \$146,651 ($\$148,022 - \$1,371 = \$146,651$). Further, staff recommends a working capital allowance of \$22,928 ($\$183,420/8$) for wastewater, based on the adjusted O&M expense of \$183,420 ($\$184,764 - \$1,344 = \$183,420$).

Rate Base Summary

Applying all of the above adjustments results in a negative rate base of \$6,083 for wastewater. In accordance with Commission practice, staff has adjusted the rate base to zero for ratemaking purposes.⁸ Based on the forgoing, staff recommends that the appropriate test year average rate base is \$331,883 for water and zero for wastewater. Further, the Utility should complete the pro forma items within 12 months of the issuance of the consummating order. If the Utility encounters any unforeseen events that will impede the completion of the pro forma items, the Utility should immediately notify the Commission in writing. Also, the Utility should be required to submit a copy of the final invoices and proof of payment for all pro forma plant items. Rate base is shown on Schedules No. 1-A and 1-B. The related adjustments are shown on Schedule No. 1-C.

⁷Section 367.081(9), F.S., which became effective July 1, 2016, states, “A utility may not earn a return on the unamortized balance of the rate case expense. Any unamortized balance of rate case expense shall be excluded in calculating the utility’s rate base.” The Utility’s application was filed on July 27, 2016, after the statute became effective. Therefore, staff excluded rate case expense from the working capital calculations.

⁸Order No. PSC-97-0540-FOF-WS, issued May 12, 1997, in Docket No. 19960799-WS, *In re: Application for staff-assisted rate case in DeSoto County by Lake Suzy Utilities, Inc.*, and Order No. PSC-13-0327-PAA-SU, issued July 16, 2013, in Docket No. 20120170-SU, *In re: Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC*.

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Issue 4: What is the appropriate rate of return on equity and overall rate of return for Four Lakes?

Recommendation: The appropriate return on equity (ROE) is 9.96 percent with a range of 8.96 percent to 10.96 percent. The appropriate overall rate of return is 7.31 percent. (Golden, Wilson)

Staff Analysis: Four Lakes is owned by a partnership comprised of three individuals and one business (ATA Properties, Inc.), and is managed by Century Companies (Century), which manages approximately 16 residential communities, including four other water and wastewater utilities that are regulated by the Commission; Anglers Cove West, CHC VII, Hidden Cove, and S.V. Utilities. Four Lakes' average test year capital structure consists of \$4,325 in short-term debt. As discussed in Issue 3, staff is recommending approval of three pro forma projects to replace a hydropneumatic tank, all of the Utility's water meters, and a well pump, shaft, and assembly. The total cost for these projects is \$286,540. A representative of the Utility advised staff that all three projects are being paid for with existing funds, and that no loans will be obtained related to these projects. Therefore, staff increased common equity by \$286,540 to reflect the funding for the three pro forma projects. The only loan directly attributable to Four Lakes is the \$4,325 short-term debt related to the purchase of a mini excavator. In addition, the owners of the Four Lakes community have a loan that covers both the park operations and utility operations, but did not allocate a specific amount of the loan to the Utility. Therefore, staff increased long-term debt by \$213,296 to reflect the portion of the loan that corresponds to the Utility's test year rate base

The Utility's capital structure has been reconciled with staff's recommended rate base. As discussed in Issue 7, staff is recommending that the operating ratio methodology be used in this case for the wastewater system. Although the traditional rate of return does not apply to the wastewater system in this case due to the negative rate base, staff recommends that an ROE still be established for this Utility for both the water and wastewater systems. The appropriate ROE is 9.96 percent based upon the Commission-approved leverage formula currently in effect.⁹ Staff recommends an ROE of 9.96 percent, with a range of 8.96 percent to 10.96 percent, and an overall rate of return of 7.31 percent. The ROE and overall rate of return are shown on Schedule No. 2.

⁹Order No. PSC-17-0249-PAA-WS, issued June 26, 2017, in Docket No. 20170006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

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Issue 5: What are the appropriate test year revenues for Four Lakes?

Recommendation: The appropriate test year revenues for Four Lakes are \$143,020 for water and \$142,313 for wastewater. (Johnson)

Staff Analysis: Four Lakes recorded \$142,371 of service revenues for water and \$142,994 for wastewater. The Utility did not have any miscellaneous revenues because there are no approved miscellaneous service charges. The Utility's current tariff reflects a monthly base facility charge (BFC) of \$26.18 for both water and wastewater service, which includes an allotted 5,000 gallons a month. Customer usage above 5,000 gallons is billed at \$1.05 per thousand gallons. The Utility bills the BFC monthly and the gallonage charge for usage above 5,000 gallons quarterly, then allocates the revenues equally between water and wastewater service.

Based on staff's review of the Utility's billing determinants and the rates that were in effect during the test year, staff recommends the Utility test year water service revenues be increased by \$649 and wastewater service revenues be decreased by \$681 to reflect the appropriate test year revenues. Based on the above, staff recommends that the appropriate test year revenues are \$143,020 ($\$142,371 + \649) for the water system and \$142,313 ($\$142,994 - \681) for the wastewater system.

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Issue 6: What is the appropriate amount of operating expenses?

Recommendation: The appropriate amount of operating expense for the Utility is \$192,125 for water and \$215,815 for wastewater. (Golden, Wilson)

Staff Analysis: Four Lakes recorded operating expense of \$164,667 for water and \$205,264 for wastewater for the test year ended August 31, 2016. The test year O&M expenses have been reviewed, including invoices, canceled checks, and other supporting documentation. In addition, the Utility filed a response to Commission staff's audit report and provided additional confidential information to clarify and support its test year salary allocations. Staff has made several adjustments to the Utility's operating expenses as summarized below.

Operational Information

As noted previously in Issue 4, Four Lakes' is owned by a partnership comprised of three individuals and a business (ATA Properties, Inc.), and is managed by Century, which manages approximately 16 residential communities, including four other water and wastewater utilities that are regulated by the Commission; Anglers Cove West, CHC VII (CHC), Hidden Cove, and S.V. Utilities (SV). Four Lakes receives all of its direct operational, maintenance, administrative, and managerial services from Century. All of the work is performed by Century employees with the exception of the contractual water plant operator and professional engineering services. Century's technical employees' are responsible for: the wastewater plant operation; water and wastewater plant maintenance and repairs; water and wastewater line repairs; lift station maintenance and repairs; oversight of the cross-connection control plan required by the PCHD; meter reading; water meter testing and maintenance; and general facilities maintenance, such as painting, power washing, mowing, and landscaping.

Century's employees are also responsible for onsite customer relations activities within the Four Lakes community including collecting utility billing payments from customers and assisting with customer or community concerns, such as water leaks, lift station issues, and meter testing. In addition, Century's employees are responsible for all of the administrative and managerial functions related to Four Lakes' water and wastewater service including but not limited to: water and wastewater billing; updating customer billing records; assisting the community managers with payment collections and water shut-off notices; documenting the cross-connection control plan for all the utilities; assisting the technical staff and community managers with daily operational issues, including utility repairs and improvements, and any customer concerns. Century's employees are also responsible for all the accounting, finance, tax, and payroll work related to Four Lakes' water and wastewater operations.

The Commission previously reviewed and approved expenses related to Century's management services for CHC and SV. Century allocates any shared common expenses between the applicable communities and/or utilities based on the number of lots in each community. In the most recent rate cases for CHC and SV, the Commission found that allocating the costs based on lots properly allocates costs to all businesses and is reasonable.¹⁰ Staff notes that it has also been

¹⁰Order No. PSC-14-0196-PAA-WS, issued May 1, 2014, in Docket No. 130210-WS, *In re: Application for staff-assisted rate case in Polk County by CHC VII, Ltd.*, and Order No. PSC-14-0195-PAA-WS, issued May 1, 2014, in Docket No. 130211-WS, *In re: Application for staff-assisted rate case in Polk County by S.V. Utilities, Ltd.*

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Commission practice to allocate common costs based on ERCs. Therefore, staff compared the lot allocation and ERC allocation percentages for each of the five related utilities to determine if the lot allocation method still produces an equitable result. Because the communities served by the five utilities have a similar customer base and few general service customers, both methods produce similar results. Also, because a portion of the shared expenses are allocated to the communities, for which an ERC calculation is not possible, staff believes the lot allocation method ensures that the costs are allocated properly between the utility and non-utility businesses. Staff has applied this methodology in the adjustments recommended below.

Operation and Maintenance (O&M) Expenses

Salaries and Wages – Employees (601/701)

Four Lakes recorded salaries and wages – employees expense of \$74,356 for water and \$83,921 for wastewater for the test year to reflect Four Lakes' share of Century's allocated employee salaries and wages expense. Century's employees' time spent on water and wastewater duties versus community-related work for all 16 communities and five utilities ranges from 100 percent to as little as eight percent. The total water and/or wastewater portion of each employee's salary is then allocated to the related utilities depending upon which utilities that employee works on.

As noted above, the Utility filed a response to the audit report and provided additional confidential information to clarify its information provided during the audit and to further support Century's test year salary allocations.¹¹ Based on a review of the confidential salary information, staff determined that increases of \$15 for water and \$281 for wastewater are necessary to reflect the correct test year balances. Century's salary allocations reflect the combined total of gross wages, payroll taxes, and employee benefits. Due to the confidential classification of the additional salary information, staff is not specifying the exact split of the costs in this recommendation. However, staff believes it would be appropriate to reclassify the payroll tax portion of the allocation to the proper account. Therefore, staff decreased this account by \$6,848 for water and \$7,736 for wastewater to reclassify the test year payroll taxes that were included with these salary allocations to Taxes Other Than Income.

The test year salary allocations only included the direct salary allocations related to the operational, technical, administrative, and managerial functions. No salary allocations related to the indirect functions of accounting, finance, tax, and payroll work for Four Lakes' water and wastewater systems were included in the test year expenses. Century plans to begin allocating a portion of its annual administrative and general (A&G) expenses to the five water and wastewater utilities going forward, beginning in January 2018, and has requested consideration of those expenses as a pro forma adjustment in the instant case. The allocation is limited to the corporate expenses that have some association with the water and wastewater utilities. Century determined that approximately 9 percent of the total utility-related A&G expense of \$1,526,500 is attributable to the water and wastewater utilities, resulting in a total allocated A&G expense of \$137,385 to all the water and wastewater utilities. Applying the lot allocation methodology, this results in Four Lakes being allocated approximately 2.57 percent of the applicable A&G expenses. Based on staff's review, the requested pro forma A&G expenses are not duplicative of Four Lakes' test year expenses and are appropriate for inclusion in Four Lakes' revenue

¹¹Document No. 04995-17, filed on May 24, 2017, in Docket No. 20160176-WS.

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requirement. Further, staff determined that the salary allocation for the accounting, finance, tax, and payroll work is not duplicative of any work performed by the employees who were already reflected in the test year salaries and wages expense. Based on the above, staff increased this account by \$11,744 for water and \$11,458 for wastewater to reflect Four Lakes' pro forma allocated share of indirect salaries expense. Staff's recommended adjustment excludes the estimated payroll taxes, which will be addressed in the Taxes Other Than Income section later in this issue.

As will be discussed further in Issue 9, staff is recommending a change in the billing frequency from quarterly to monthly. The increase in billing frequency is expected to require an additional 40 hours of work per month related to the increased billing, payment processing, and collection work. As discussed above, the Utility's test year salaries and wages expense includes two corporate employees who perform billing related duties. The Utility anticipates that it will be necessary to hire additional office staff to help meet the increased work demand at an estimated cost of \$728 per month or \$8,736 per year to cover the incremental increase in wages and payroll costs. Staff reviewed the Utility's current billing process and resulting changes, and agrees that it would be appropriate to recognize the incremental increase in salaries and wages expense in this case. Based on the current work assignments and necessary changes to convert to monthly billing, staff believes it is reasonable to expect that additional assistance with these duties will be necessary. Therefore, staff increased this account by \$3,954 for water and \$3,858 for wastewater to reflect the pro forma allocation of the additional employee salaries and wages expense resulting from the increased billing frequency. Again, staff's recommended adjustment excludes the estimated payroll taxes, which will be addressed in the Taxes Other Than Income section later in this issue.

Although the change from quarterly to monthly billing will increase the current meter reading workload, the new remote read meters are expected to reduce the amount of time that is currently necessary to read meters. Therefore, the Utility has estimated that it has a sufficient expense allocation in its test year expenses to cover the increased meter reading workload following installation of the new remote read meters, and is not requesting an increase in meter reading related salaries expense. Based on staff's review of the Utility's confidential salary information and work duties, staff believes the adjusted salaries are reasonable. Further, staff believes Four Lakes' customers benefit from the shared resources that allow the Utility to address any operational issues or customer concerns in a more timely and efficient manner than may otherwise be available for a utility that is operating on a stand-alone basis with a more limited workforce. Based on the above, staff's adjustments to this account are net increases of \$8,865 for water and \$7,861 for wastewater. Therefore, staff recommends salaries and wages – employees expense of \$83,221 for water and \$91,782 for wastewater.

Purchased Power (615/715)

Four Lakes recorded purchased power expense of \$31,953 for water and \$15,669 for wastewater for the test year. Staff determined that the purchased power expense was understated. Therefore, staff increased this account by \$1,925 for water and \$2,934 for wastewater to reflect the annualized balances. Also, staff decreased this account by \$686 for water and \$476 for wastewater to remove late fees and out-of-period expenses from the test year balances. In addition, staff decreased this account by \$23,282 for water and \$633 for wastewater to remove

purchased power expense associated with the Four Lakes' golf course and unsupported expenses. As discussed in Issue 2, staff is recommending an EUW adjustment of 7.2 percent. Therefore, staff decreased the adjusted water account balance by \$714 ($\$9,911 \times .072 = \714) to reflect a 7.2 percent EUW adjustment. Staff's net adjustment is a decrease of \$22,756 to water and an increase of \$1,826 to wastewater. Therefore, staff recommends purchased power expense of \$9,197 for water and \$17,495 for wastewater.

Chemicals (618/718)

Four Lakes recorded chemicals expense of \$4,942 for water and \$15,626 for wastewater for the test year. Staff decreased this account by \$279 for water and \$268 for wastewater to reflect the correct test year balances. As discussed in Issue 2, staff is recommending an EUW adjustment of 7.2 percent. Therefore, staff decreased the adjusted water account balance by \$336 ($\$4,663 \times .072 = \336) to reflect a 7.2 percent EUW adjustment. Staff's total adjustments are decreases of \$615 to water and \$268 to wastewater. Staff recommends chemicals expense of \$4,327 for water and \$15,358 for wastewater.

Materials and Supplies (620/720)

The Utility recorded materials and supplies expense of \$9,673 for water and \$4,288 for wastewater for the test year. Staff decreased the water account by \$947 to remove unsupported and out-of-period expenses. In addition, staff increased the wastewater account by \$1,829 to reflect the test year balance supported by existing invoices. Accordingly, staff recommends materials and supplies expense of \$8,726 for water and \$6,117 for wastewater.

Contractual Services - Billing (630/730)

As discussed above, Four Lakes' test year salaries include an allocation for Century's employees' billing related work. However, Four Lakes did not record any other billing expense for the test year, such as postage and billing supplies, because Century incurred the billing expense but did not allocate those costs to the Utility. Staff believes it would be appropriate to include an allowance for billing expense, and believes the proposed billing expense allocation is reasonable. Therefore, staff increased this account by \$1,476 for water and \$1,440 for wastewater to reflect the pro forma allocation of corporate billing expense. As noted above, staff is recommending that the Utility's billing frequency be changed from quarterly to monthly. The additional billing will result in increases in various billing related costs, such as postage, card stock, printing costs, and office supplies. Therefore, staff also increased this account by \$2,618 for water and \$2,555 for wastewater to reflect the allocated pro forma increase in billing expense resulting from the change in billing frequency. Although the total expense is allocated based on the percentage of lots, staff has allocated Four Lakes' total share of the billing expense between the water and wastewater systems based on ERCs to recognize the slight difference in the number of general service customers between the two systems. Based on the above, staff recommends contractual services – billing expense of \$4,095 for water and \$3,995 for wastewater.

Contractual Services - Professional (631/731)

Four Lakes recorded balances of \$4,962 for water and \$10,250 for wastewater in this account. This account includes expenses related to recurring professional engineering services and permitting. Audit staff determined that no adjustments are necessary to the water account, but a

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decrease of \$5,930 is necessary to remove unsupported expenses from the wastewater account. Therefore, staff decreased the wastewater account by \$5,930 to reflect the appropriate test year balance, and recommends contractual services – professional expense of \$4,962 for water and \$4,320 for wastewater for the test year.

Contractual Services - Testing (635/735)

The Utility recorded testing expense of \$2,806 for water and \$6,651 for wastewater in this account. Staff decreased this account by \$2,488 for water and \$250 for wastewater to reclassify contractual equipment testing services to Account Nos. 636 and 736 – Contractual Services – Other. In addition, the Utility's water testing expenses were understated, therefore, staff increased the water account by \$219 to annualize the water testing expenses. Further, staff decreased the wastewater account by \$1,346 to reflect the appropriate test year wastewater testing expense based on existing invoices. Staff's adjustments are a net decrease of \$2,268 for water and a total decrease of \$1,596 for wastewater. For informational purposes, staff notes that the Utility's wastewater testing expense includes Four Lakes' portion of a groundwater monitoring project that the Utility is currently amortizing over a four-year period. Based on the above, staff recommends contractual services – testing expense for the test year of \$538 for water and \$5,055 for wastewater.

Contractual Services - Other (636/736)

The Utility recorded contractual services – other expense of \$10,288 for water and \$4,229 for wastewater. As discussed above, Four Lakes' water plant is operated by a contractual plant operator. The test year contractual services – other expense for water primarily consists of the monthly contractual service fees for the water plant operation. In addition, the water account includes several plant repairs that required assistance from outside vendors, such as backflow preventer repairs, and assistance with preparation of regulatory reports, including the Annual Consumer Confidence Report and an Annual Public Safety Report. The test year contractual services – other expense for wastewater only includes expenses related to plant repairs or regulatory reports that required assistance from outside vendors. As discussed above, Century's employees are responsible for the wastewater plant operation, therefore, no contractual service fees were incurred related to the regular operation of the wastewater plant. Further, staff has determined that there is no duplication of test year expenses between the salaries and wages expense and contractual services – other expense related to the operation of Four Lakes' water and wastewater treatment plants.

Based on a review of the test year expenses, staff increased the water account by \$275 and decreased the wastewater account by \$2,389 to reflect the appropriate test year balances based on existing invoices. As noted above, staff increased this account by \$2,488 for water and \$250 for wastewater to reclassify contractual equipment testing services from Account Nos. 635 and 735 – Contractual Services – Testing. Finally, staff increased the wastewater account by \$1,620 to reclassify contractual percolation pond maintenance expenses from Account No. 775 – Miscellaneous Expense. Staff's total adjustment to water contractual services – other expense is an increase of \$2,763, and staff's adjustment to wastewater contractual services – other expense is a net decrease of \$519. Therefore, staff recommends contractual services – other expense for the test year of \$13,051 for water and \$3,710 for wastewater.

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Rent Expense (640/740)

Four Lakes did not record any test year rent expense. Century has requested consideration of a pro forma allocation of corporate A&G rent expense. As noted previously, the corporate allocation results in approximately 2.57 percent of each utility related A&G expense being allocated to Four Lakes. Therefore, staff increased this account by \$3,320 for water and \$3,239 for wastewater to reflect the pro forma allocation of corporate rent expense. In addition, staff increased this account by \$64 for water and \$62 for wastewater to reflect the pro forma allocation of corporate equipment rental expense. Staff allocated Four Lakes' total share of the rent expense between the water and wastewater systems based on ERCs to recognize the slight difference in the number of general service customers between the two systems. Staff's total adjustments to this account are increases of \$3,384 for water and \$3,302 for wastewater. Staff recommends rent expense of \$3,384 for water and \$3,302 for wastewater.

Transportation Expense (650/750)

The Utility recorded test year transportation expense of \$5,079 for water and \$6,800 for wastewater. Staff decreased this account by \$1,043 for water and \$3,713 for wastewater to reflect the appropriate test year balances. Subsequent to the filing of the Staff Report, the Utility requested consideration of additional transportation expense allocations related to the recent purchase of a truck and tractor that are used exclusively for utility work for Four Lakes' and the four other related utilities. Staff reviewed the purchase documentation and proposed allocations, and believes it would be appropriate to include the incremental increases for these items in this case. Therefore, staff increased this account by \$1,359 each for water and wastewater to reflect Four Lakes' allocated share of the truck purchase. The truck was purchased to replace a 2002 utility truck. The Utility indicated that the test year transportation expense allocation includes sufficient fuel and maintenance costs for the new truck, therefore, no incremental increases are requested for that purpose. Staff also increased this account by \$1,295 each for water and wastewater to reflect Four Lakes' allocated share of the tractor purchase, fuel, and maintenance expense. Finally, staff increased this account by \$607 and \$592 for water and wastewater, respectively, to reflect the pro forma allocation of corporate transportation expense. Staff's net adjustments are an increase of \$2,219 for water and a decrease \$466 for wastewater, respectively. Staff recommends transportation expense of \$7,298 for water and \$6,334 for wastewater.

Insurance Expense (655/755)

The Utility recorded test year insurance expense of \$2,144 for water and \$2,539 for wastewater. Staff increased water by \$665 and decreased wastewater by \$651 to reflect the appropriate test year insurance expense. Also, staff increased these accounts by \$230 and \$225 for water and wastewater, respectively, to reflect the pro forma allocation of corporate insurance expense. Staff's total adjustment to water is an increase of \$896 and staff's adjustment to wastewater is a net decrease of \$426. Staff recommends insurance expense of \$3,040 for water and \$2,113 for wastewater.

Regulatory Commission Expense (665/765)

The Utility recorded regulatory commission expense of \$540 for water and \$540 for wastewater for the test year to reflect the total \$1,080 in legal expenses incurred by the Utility while preparing the SARC application. Section 367.0814(3), F.S., states in part that, "...the commission

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may not award rate case expenses to recover attorney fees or fees of other outside consultants who are engaged for the purpose of preparing or filing the case if a utility receives staff assistance in changing rates and charges pursuant to this section, unless the Office of Public Counsel or interested parties have intervened.” This statutory amendment became effective July 1, 2016. Because Four Lakes’ SARC application was filed on July 27, 2016, after this statutory amendment took effect, these expenses are not eligible for recovery through rate case expense. Therefore, staff decreased this account by \$540 for water and \$540 for wastewater to remove the test year SARC-related legal fees.

The Utility is required by Rule 25-22.0407, F.A.C., to provide notices of the customer meeting and notices of final rates in this case to its customers. Staff is also recommending that the Utility be required to provide notice of the four-year rate reduction to its customers when the rates are reduced to remove the amortized rate case expense. For noticing, staff estimated \$1,214 for postage expense, \$826 for printing expense, and \$124 for envelopes. This results in \$2,164 for the noticing requirement. The Utility paid a total of \$2,000 in rate case filing fees (\$1,000 for water and \$1,000 for wastewater).

Pursuant to Section 367.0814(3), F.S., “The commission may award rate case expenses for attorney fees or fees of other outside consultants if such fees are incurred for the purpose of providing consulting or legal services to the utility after the initial staff report is made available to customers and the utility.” The Utility provided documentation to support \$8,018 in additional legal fees incurred to date and estimated through end of the PAA process. Staff reviewed the documentation and believes the Utility’s requested legal fees are reasonable. However, \$1,413 was incurred prior to the issuance of the Staff Report, for legal services related to the Utility’s response to staff’s audit report and the associated request for confidential treatment of the Utility’s supplemental test year salary allocation information. Pursuant to Section 367.0814(3), F.S., staff excluded the \$1,413 from consideration, resulting in total allowed legal fees of \$6,695. Based on the above, staff recommends total rate case expense of \$10,859 (\$2,164 + \$2,000 + \$6,695), which amortized over four years is \$2,715. Staff has allocated the annual rate case expense to the water and wastewater systems based on ERCs, resulting in annual rate case expense of \$1,371 for water and \$1,344 for wastewater. Staff’s net adjustments to this account are increases of \$831 for water and \$804 for wastewater. Therefore, staff recommends regulatory commission expense of \$1,371 for water and \$1,344 for wastewater.

Bad Debt Expense (670/770)

The Utility recorded test year bad debt expense of \$26 for water and \$26 for wastewater, resulting in total bad debt expense of \$52. A review of the Utility’s prior annual reports indicates that Four Lakes’ generally has very low bad debt expense with the exception of 2014, in which the Utility reported a total of \$264 in bad debt expense for water and wastewater combined. Using the historical average of either three or five years produces an average total bad debt expense between \$70 and \$214. Both averages are higher than Four Lakes’ typical bad debt expense due to the effect of the higher than usual 2014 bad debt expense. Therefore, staff believes it would be more appropriate to use the test year expense in this case, and therefore, does not recommend any adjustments to bad debt expense. Staff recommends bad debt expense of \$26 for water and \$26 for wastewater for the test year.

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Miscellaneous Expense (675/775)

Four Lakes recorded test year miscellaneous expense of \$3,956 for water and \$1,782 for wastewater. Staff decreased the water account by \$538 and increased the wastewater account by \$777 to reflect the appropriate test year expense based on existing invoices. Also, staff decreased the wastewater account by \$1,620 to reclassify contractual percolation pond maintenance expenses to Account No. 736 – Contractual Services – Other. In addition, staff increased this account by \$459 for water and \$448 for wastewater to reflect the pro forma allocation of corporate equipment expense. Finally, staff increased this account by \$910 for water and \$888 for wastewater to reflect the pro forma allocation of corporate miscellaneous expense. The corporate A&G miscellaneous expenses include bank fees, dues and subscriptions, filing fees, licenses and permits, telephone, travel, and training. Staff's net adjustments are increases of \$831 and \$493 to water and wastewater, respectively. Therefore, staff recommends miscellaneous expense of \$4,787 for water and \$2,275 for wastewater.

Operation and Maintenance Expense Overview

Based on staff's recommended O&M expense adjustments above, Four Lakes' total O&M expenses result in an annual per ERC cost of slightly less than \$172 for water and \$220 for wastewater. Staff compared the total operation and maintenance expenses per ERC for several small utilities that have had recent rate increases approved by the Commission, including utilities that operate with shared resources, as well as utilities that operate on a stand-alone basis. The compared total O&M expense per ERC ranged from \$264 to \$363 for water, and \$281 to \$430. Based on this comparison, staff believes that Four Lakes is experiencing operational and cost benefits attributable to economies of scale that are possible through Century's management of multiple properties and utility systems. Also, the sharing of employee resources between the communities and utilities has allowed Century to hire and retain employees with the necessary utility expertise at a comparably reasonable price. The ability to retain qualified employees who are familiar with the Utility's operations serves to provide consistent operation and maintenance of the facilities, as well as improved customer relations. Consequently, staff believes that Four Lakes' customers benefit from Century's management of the Utility using shared resources that would likely not be possible if Four Lakes were operated on a stand-alone basis.

Operation and Maintenance Expense (O&M Summary)

Based on the above adjustments, O&M expense should be decreased by \$2,703 for water and increased by \$10,903 for wastewater, resulting in total O&M expense of \$148,022 for water and \$184,764 for wastewater. Staff's recommended adjustments to O&M expense are shown on Schedule Nos. 3-A through 3-E.

Depreciation Expense (Net of Amortization of CIAC)

The Utility's records reflect test year water depreciation expense of \$19,472 and CIAC amortization expense of \$18,115, resulting in a net water depreciation expense of \$1,357 ($\$19,472 - \$18,115 = \$1,357$). Also, the Utility's records reflect test year wastewater depreciation expense of \$49,181 and CIAC amortization expense of \$35,170, resulting in a net wastewater depreciation expense of \$14,011 ($\$49,181 - \$35,170 = \$14,011$). Staff calculated depreciation expense using the prescribed rates set forth in Rule 25-30.140, F.A.C., and decreased water and wastewater depreciation expense by \$2,655 and \$23,987, respectively, to

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reflect the appropriate test year depreciation expense. Staff also decreased this account by \$110 to reflect the retirement of the test year pump replacement for well #2.

In addition, staff made several adjustments to water depreciation expense to reflect pro forma plant additions. Staff increased the water account by \$71 to reflect the depreciation expense associated with a chlorinator replacement and retirement that occurred after the end of the test year, and decreased the water account by \$10 to reflect the associated retirement. Also, staff increased this account by \$2,208 to reflect the increase in depreciation expense from the pro forma hydropneumatic tank replacement. Staff also increased this account by \$11,382 to reflect the increase in depreciation expense from the pro forma meter replacement project and decreased this account by \$396 to remove the depreciation expense associated with the retired meters. Finally, staff increased the water account by \$1,187 to reflect the pro forma well pump, shaft and assembly replacement.

Based on the above, staff's adjustment to water depreciation expense is a net increase of \$11,677, resulting in water depreciation expense of \$31,149 ($\$19,472 + \$11,677 = \$31,149$). Further, staff's total adjustment to wastewater depreciation expense is a decrease of \$23,987, resulting in wastewater depreciation expense of \$25,194 ($\$49,181 - \$23,987 = \$25,194$). In addition, staff decreased CIAC amortization expense by \$2,896 for water and \$10,519 for wastewater to reflect the appropriate test year balances, which are \$15,219 for water ($\$18,115 - \$2,896 = \$15,219$) and \$24,651 for wastewater ($\$35,170 - \$10,519 = \$24,651$). Consequently, the net depreciation expense for water is \$15,930 ($\$31,149 - \$15,219 = \$15,930$), and the net depreciation expense for wastewater is \$543 ($\$25,194 - \$24,651 = \543). Therefore, staff recommends net depreciation expense of \$15,930 for water and \$543 for wastewater.

Taxes Other Than Income (TOTI)

Four Lakes recorded TOTI of \$12,585 for water and \$17,392 for wastewater for the test year. The Utility recorded RAFs of \$6,391 for water and \$6,269 for wastewater for the test year. Based on staff's recommended test year revenues of \$143,020 for water and \$142,313 for wastewater, the Utility's RAFs should be \$6,436 and \$6,404 for water and wastewater, respectively. Therefore, staff increased these accounts by \$45 for water and \$135 for wastewater to reflect the appropriate test year RAFs. As discussed above, the salary allocations included the associated payroll taxes. Staff increased this account by \$6,848 for water and \$7,736 for wastewater to reclassify the test year payroll taxes to TOTI. Similarly, staff increased this account by \$1,513 for water and \$1,487 for wastewater to reflect the payroll taxes associated with the pro forma salary allocations and additional billing salary expense. Finally, staff increased water utility property taxes by \$3,882 to reflect the additional property taxes associated with the pro forma plant additions. Staff's total adjustments are increases of \$12,287 to water and \$9,358 to wastewater.

In addition, as discussed in Issue 8, revenues have been increased by \$73,366 for water and \$83,502 for wastewater to reflect the change in revenue required to cover expenses and allow an opportunity to recover the recommended rate of return on water and recommended operating margin on wastewater. As a result, TOTI should be increased by \$3,301 for water and \$3,758 for wastewater to reflect RAFs of 4.5 percent of the change in revenues. Therefore, staff recommends TOTI of \$28,174 for water and \$30,508 for wastewater.

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Income Taxes

The Utility did not record any income taxes for the test year. Four Lakes is owned by a partnership comprised of three individuals and a business. In accordance with Federal Internal Revenue Service (IRS) regulations, a partnership must file an annual information return to report the income, deductions, gains, or losses from its operations, but it does not pay income tax. Instead, the partnership passes through any profits or losses to its partners. Each partner includes their share of the partnership's income or loss on their tax return.¹² Accordingly, no adjustments are necessary for test year income taxes.

Operating Expenses Summary

The application of staff's recommended adjustments to Four Lakes' test year operating expenses results in operating expenses of \$192,125 for water and \$215,815 for wastewater. Operating expenses are shown on Schedules No. 3-A and 3-B. The adjustments are shown on Schedule No. 3-C.

¹²Source: <https://www.irs.gov/businesses/small-businesses-self-employed/partnerships>

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Issue 7: Should the Commission utilize the operating ratio methodology as an alternative method of calculating the wastewater revenue requirement for Four Lakes and, if so, what is the appropriate margin?

Recommendation: Yes. The Commission should utilize the operating ratio methodology for calculating the wastewater revenue requirement for Four Lakes. The margin should be 5.41 percent of O&M expense. (Golden, Wilson)

Staff Analysis: Section 367.0814(9), F.S., provides that the Commission may, by rule, establish standards and procedures for setting rates and charges of small utilities using criteria other than those set forth in Sections 367.081(1), (2)(a), and (3), F.S. Rule 25-30.456, F.A.C., provides an alternative to a staff-assisted rate case as described in Rule 25-30.455, F.A.C. As an alternative, utilities with total gross annual operating revenue of less than \$275,000 per system may petition the Commission for staff assistance using alternative rate setting.

Four Lakes did not petition the Commission for alternative rate setting under the aforementioned rule, but staff believes the Commission should employ the operating ratio methodology to set wastewater rates in this case. The operating ratio methodology is an alternative to the traditional calculation of revenue requirements. Under this methodology, instead of applying a return on the Utility's rate base, the revenue requirement is based on Four Lakes' O&M expenses plus a margin. This methodology has been applied in cases in which the traditional calculation of the revenue requirement would not provide sufficient revenue to protect against potential variances in revenues and expenses.

By Order No. PSC-96-0357-FOF-WU,¹³ the Commission, for the first time, utilized the operating ratio methodology as an alternative means for setting rates. This order also established criteria to determine the use of the operating ratio methodology and a guideline margin of 10 percent of O&M expense. This criterion was applied again in Order No. PSC-97-0130-FOF-SU.¹⁴ Recently, the Commission approved the operating ratio methodology for setting rates in Order No. PSC-2017-0383-PAA-SU.¹⁵

By Order No. PSC-96-0357-FOF-WU, the Commission established criteria to determine whether to utilize the operating ratio methodology for those utilities with low or non-existent rate base. The qualifying criteria established by Order No. PSC-96-0357-FOF-WU and how they apply to the Utility are discussed below:

- 1) Whether the Utility's O&M expense exceeds rate base. The operating ratio method substitutes O&M expense for rate base in calculating the amount of return. A utility generally would not benefit from the operating ratio method if rate base exceeds O&M expense. In the instant case, rate base is less than the level of O&M expense. The

¹³Order No. PSC-96-0357-FOF-WU, issued March 13, 1996, in Docket No. 950641-WU, *In re: Application for staff-assisted rate case in Palm Beach County by Lake Osborne Utilities Company, Inc.*

¹⁴Order No. PSC-97-0130-FOF-SU, issued February 10, 1997, in Docket No. 960561-SU, *In re: Application for staff-assisted rate case in Citrus County by Indian Springs Utilities, Inc.*

¹⁵Order No. PSC-2017-0383-PAA-SU, issued October 4, 2017, in Docket No. 20160165-SU, *In re: Application for staff-assisted rate case in Gulf County by ESAD Enterprises, Inc. d/b/a Beaches Sewer Systems, Inc.*

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Utility's primary risk resides with covering its operating expense. Based on staff's recommendation, the adjusted rate base for the test year is negative \$6,083, adjusted to zero for ratesetting purposes, while adjusted O&M expenses are \$184,764.

- 2) Whether the Utility is expected to become a Class B utility in the foreseeable future. Pursuant to Section 367.0814(9), F.S., the alternative form of regulation being considered in this case only applies to small utilities. Four Lakes is a Class C utility. If approved by the Commission, the recommended wastewater revenue requirement of \$225,815 will result in Four Lakes gaining Class B status. According to Order No. PSC-96-0357-FOF-WU, the concern with Class B status is that allowing the operating ratio method for a utility on the verge of becoming a Class B might subject the utility to overearnings action and rate reductions when Class B status is reached. Although the instant rate proceeding may result in Four Lakes gaining Class B status, the recommended wastewater revenue requirement is well below the \$275,000 threshold for SARC eligibility. Further, the Utility's last new customer was connected in 2002 and the service area is built out. Due to the lack of growth, Four Lakes' revenues are expected to remain well below the \$275,000 SARC eligibility threshold into the foreseeable future, and the Utility should remain eligible for alternative form of regulation allowed under Section 367.0814(9), F.S.
- 3) Quality of service and condition of plant. As discussed in Issue 1, the quality of service should be considered satisfactory.
- 4) Whether the Utility is developer-owned. Four Lakes is currently owned by a partnership comprised of three individuals and a business. The wastewater facilities were constructed by the developer as part of the residential community. According to Order No. PSC-96-0357-FOF-WU, being developer owned shall not disqualify a utility from the operating ratio method, and eligibility shall be determined on a case by case basis. It may not be appropriate to use the operating ratio if the development is in the early stages of growth. Other factors that may be considered when determining eligibility for the operating ratio method are customer growth, the developer's financial condition, the utility's financial and operational condition, government mandated improvements and/or other unanticipated expenses. The level of CIAC collected by the utility may also be considered.

The Utility has been in existence since 1995 and has never had a rate proceeding or filed for a price index rate adjustment. As would be expected with a developer owned Utility, Four Lakes' operations were sustained in the early years of the development through service revenues, supplemented by owner or managing company funds when needed. Four Lakes has reported losses in its annual reports each year since it was certificated in 1998, with most of the losses occurring with the wastewater system. As noted above, Four Lakes will not be experiencing any new growth because the last new customer was connected 2002 and the service area is built out. In addition, Four Lakes collected service availability charges from all its customers, which served to keep the customers' rates lower than would have otherwise been experienced if the Utility had not collected service availability. Based on the Utility's test year records, prior to staff's

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recommended adjustments in this case, Four Lakes' service availability charges were designed to achieve a 72 percent CIAC level, which is within the guidelines established by Rule 25-30.580, F.A.C. and near the target 75 percent maximum. Due to the age of the development, built-out status, and appropriate CIAC level, the Utility's current financial condition is not expected to change as a result of any developer-related activity. Staff notes that the negative rate base is due to a lack of record support and may be corrected if the Utility pursues an original cost study. In which case, the Utility may be able to return to the rate of return methodology in a future rate proceeding. Based on the Utility's history and the specific circumstances in this case that required consideration of the operating ratio methodology, staff believes it would be appropriate to apply the operating ratio methodology to calculate Four Lakes' wastewater revenue requirement.

- 5) Whether the Utility operates treatment facilities or is simply a distribution and/or collection system. The issue is whether or not purchased water and/or wastewater costs should be excluded in the computation of the operating margin. Four Lakes operates the wastewater treatment plant.

Based on staff's review of the Utility's situation relative to the above criteria, staff recommends that Four Lakes is a viable candidate for the operating ratio methodology.

By Order Nos. PSC-96-0357-FOF-WS and PSC-97-0130-FOF-WU, the Commission determined that a margin of 10 percent shall be used unless unique circumstances justify the use of a greater or lesser margin. The important question is not what the return percentage should be, but what level of operating margin will allow the Utility to provide safe and reliable service and remain a viable entity. The answer to this question requires a great deal of judgment based upon the particular circumstances of the Utility.

Several factors must be considered in determining the reasonableness of a margin. First, the margin must provide sufficient revenue for the Utility to cover its interest expense. Four Lakes' interest expense is not a concern in this case.

Second, the operating ratio method recognizes that a major issue for small utilities is cash flow; therefore, the operating ratio method focuses more on cash flow than on investment. In the instant case, the Utility's primary risk resides with covering its operating expense. A traditional calculation of the revenue requirement may not provide sufficient revenue to protect against potential variances in revenues and expenses. Under the rate base methodology, the return to Four Lakes would be zero due to the Utility's negative rate base, providing no financial cushion.

Third, if the return on rate base method was applied, Four Lakes could be left with insufficient funds to cover operating expenses in the event revenues or expenses vary from staff's estimates. Therefore, the margin should provide adequate revenue to protect against potential variability in revenues and expenses. If the Utility's operating expenses increase or revenues decrease, Four Lakes may not have the funds required for day-to-day operations. Using a 10 percent margin in this docket produces an operating margin of \$18,476, which is above the suggested cap of

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\$10,000. As such, staff recommends a 5.41 percent margin in this case, resulting in a \$10,000 operating margin.

In conclusion, staff believes the above factors show that the Utility needs a higher margin of revenue over operating expenses than the traditional return on rate base method would allow. Therefore, in order to provide Four Lakes with adequate cash flow to provide some assurance of safe and reliable service, staff recommends application of the operating ratio methodology at a margin of 5.41 percent of O&M expense for determining the revenue requirements.

Issue 8: What is the appropriate revenue requirement?

Recommendation: The appropriate revenue requirement is \$216,386 for water and \$225,815 for wastewater, resulting in an annual increase of \$73,366 for water (51.30 percent) and \$83,502 for wastewater (58.67 percent). (Golden, Wilson)

Staff Analysis: Four Lakes should be allowed an annual increase of \$73,366 for water (51.30 percent) and \$83,502 for wastewater (58.67 percent). This will allow the Utility the opportunity to recover its expenses, and earn a 7.31 percent return on its water system investment and a 5.41 percent margin over its wastewater O&M expenses. The calculations are shown below, in Tables 8-1 and 8-2 for water and wastewater, respectively:

**Table 8-1
Water Revenue Requirement**

Adjusted Rate Base	\$331,883
Rate of Return	x 7.31%
Return on Rate Base	\$24,261
Adjusted O&M Expense	148,022
Depreciation Expense (Net)	15,930
Amortization	0
Taxes Other Than Income	28,174
Income Taxes	0
Revenue Requirement	\$216,386
Less Adjusted Test Year Revenues	143,020
Annual Increase	\$73,366
Percent Increase	51.30%

Table 8-2
Wastewater Revenue Requirement

Adjusted O&M Expense	\$184,764
Operating Margin Ratio	x 5.41%
Operating Margin (\$10,000 Cap)	\$10,000
Adjusted O&M Expense	184,764
Depreciation Expense (Net)	543
Amortization	0
Taxes Other Than Income	30,508
Income Taxes	0
Revenue Requirement	\$225,815
Less Adjusted Test Year Revenues	142,313
Annual Increase	\$83,502
Percent Increase	58.67%

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Issue 9: What are the appropriate rate structure and rates for Four Lakes' water and wastewater systems?

Recommendation: The recommended rate structures and monthly water and wastewater rates are shown on Schedule Nos. 4-A and 4-B. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets provided customers have received notice pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The utility should provide proof of noticing within 10 days of rendering its approved notice. (Johnson)

Staff Analysis: Four Lakes provides water service to approximately 813 residential customers, six general service customers, and seven irrigation service customers. Four Lakes also provides wastewater service to approximately 813 residential customers and six general service customers. The utility estimates that its customer base is over 30 percent seasonal. Staff cannot verify the seasonality of the customer base because the utility bills on a quarterly basis; therefore, the monthly billing data is not available. The average residential demand during the test year was approximately 6,805 gallons per month.

Currently, Four Lakes' rate structure consists of a single monthly base facility charge (BFC) of \$26.18 for both water and wastewater service combined. In addition, the BFC includes an allotment of 5,000 gallons a month. Any water usage above 5,000 gallons is billed at \$1.05 per thousand gallons, \$0.53 for water and \$0.52 for wastewater. As previously discussed, the BFC is billed monthly, but usage in excess of 5,000 gallons per month is billed quarterly. The approved rate for irrigation service is a monthly BFC of \$13.09, which includes an allotment of 5,000 gallons. Any irrigation usage above 5,000 gallons is billed at \$0.53 per thousand gallons. These rates and rate structure have been in effect since the utility was granted grandfather certificates in 1999, following Polk County turning over jurisdiction of privately owned water and wastewater utilities to the Commission.¹⁶

The current rate structure is not considered conservation oriented because the 5,000 gallon allotment does not encourage conservation and billing on a quarterly basis for usage does not give customers a timely pricing signal. Therefore, in order to send the appropriate pricing signals to promote conservation, the allotment should be eliminated and the utility should bill the BFC and gallonage charge on a monthly basis. Additionally, staff believes the water and wastewater systems should have separate rates and rate structures to promote transparency for individual customers.

Water Rates

Staff performed an analysis of the utility's billing data in order to evaluate various BFC cost recovery percentages, usage blocks, and usage block rate factors for the residential water customers. The goal of the evaluation was to select the rate design parameters that: 1) produce the recommended revenue requirement; 2) equitably distribute cost recovery among the utility's

¹⁶Order No. PSC-99-1236-PAA-WS, issued June 22, 1999, in Docket No. 19981340-WS, *In re: Application for grandfather certificates to operate water and wastewater utility in Polk County by Four Lakes Golf Club, Ltd.*

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customers; 3) establish the appropriate non-discretionary usage threshold for restricting repression; and 4) implement, where appropriate, water conserving rate structures consistent with Commission practice.

In response to staff's preliminary report, the utility requested that 55 percent of the water revenues be recovered through the BFC, estimating that 30 percent of Four Lakes' customer base is seasonal. Staff recommends that 50 percent of the water revenues should be generated from the BFC. This will provide sufficient revenues to design a gallonage charge that will send a pricing signal to customers using above non-discretionary usage, as well as provide the utility with revenue stability. The average persons per household served by the utility is two; therefore, based on the number of persons per household, 50 gallons per day per person, and the number of days per month, the non-discretionary usage threshold should be 3,000 gallons per month. Staff recommends a traditional BFC and gallonage charge rate structure with an additional gallonage charge for non-discretionary usage for residential water customers. General service and irrigation customers should be billed a BFC based on meter size and a uniform gallonage charge.

Based on the customer billing data provided by the utility, approximately 61 percent of total residential consumption is discretionary and subject to the effects of repression. Customers will typically reduce their discretionary consumption in response to price changes, while non-discretionary consumption remains relatively unresponsive. Based on the recommended revenue increase of 51.30 percent, the residential discretionary consumption can be expected to decline by 7,669,000 gallons resulting in anticipated average residential demand of 6,032 gallons per month. Staff recommends a 11.36 percent reduction in test year gallons for rate setting purposes and corresponding reductions of \$1,022 for purchased power, \$481 for chemicals, and \$71 for RAFs to reflect the anticipated repression. This results in a post repression revenue requirement of \$214,811. Staff's recommended rate structure and resulting water rates are shown on Schedule No. 4-A.

Table 9-1 contains staff's recommended water rate structure and rates as well as alternative rate structures, which include varying BFC allocations. Alternative I results in slightly higher pricing signals to target discretionary usage. Alternative II is the utility's requested rate structure and provides the utility with more revenue stability to mitigate the impact of seasonal customers. The staff recommended rate structure provides both rate stability and a significant pricing signal that targets discretionary usage.

Table 9-1
Staff's Recommended and Alternative Water Rate Structures and Rates

	UTILITY CURRENT RATES	STAFF RECOMMENDED RATES 50% BFC	ALTERNATIVE I 40% BFC	ALTERNATIVE II 55% BFC
Residential				
5/8" x 3/4" Meter Size	\$13.09	\$10.21	\$8.16	\$11.23
Charge per 1,000 gallons				
0-5,000 gallons	\$0.00			
Over 5,000 gallons	\$0.53			
0 – 3,000 gallons		\$1.57	\$1.88	\$1.41
Over 3,000 gallons		\$1.89	\$2.32	\$1.69
3,000 Gallons	\$13.09	\$14.92	\$13.80	\$15.46
5,000 Gallons	\$13.09	\$18.70	\$18.44	\$18.84
8,000 Gallons	\$14.68	\$24.37	\$25.40	\$23.91

Wastewater Rates

Staff performed an analysis of the utility's billing data in order to evaluate various BFC cost recovery percentages and gallonage caps for the residential wastewater customers. The goal of the evaluation was to select the rate design parameters that: 1) produce the recommended revenue requirement; 2) equitably distribute cost recovery among the utility's customers; and 3) implement a gallonage cap that considers approximately the amount of water that may return to the wastewater system.

Typically, the Commission's practice is to allocate at least 50 percent of the wastewater revenue requirement to the BFC due to the capital intensive nature of wastewater plants. Therefore, staff recommends that 50 percent of the wastewater revenue requirement be generated from the BFC. It is Commission practice to set the wastewater cap at approximately 80 percent of residential water sold. Based on staff's review of the billing analysis, 83 percent of the gallons are captured at the 8,000 gallon consumption level. The wastewater gallonage cap recognizes that not all water used by the residential customers is returned to the wastewater system. For this reason, staff recommends a residential gallonage cap of 8,000 gallons per month.

In addition, based on the expected reduction in water demand described above, staff recommends that a repression adjustment also be made for wastewater. Because wastewater rates are calculated based on customers' water demand, if those customers' water demand is expected to decline, then the billing determinants used to calculate wastewater rates should also be adjusted. Based on the billing analysis for the wastewater system, staff recommends that a repression adjustment of 3,397,149 gallons to reflect the anticipated reduction in water demand used to

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calculate wastewater rates. Staff recommends a 6.07 percent reduction in total residential consumption and corresponding reductions of \$933 for chemicals, \$1,062 for purchased power, \$1,308 for sludge removal expense, and \$149 for RAFs to reflect the anticipated repression, which results in a post repression revenue requirement of \$222,364.

Staff recommends that 50 percent of the wastewater revenue requirement be generated from the BFC. For residential wastewater customers, staff recommends a uniform BFC for all meter sizes and a gallonage charge for gallons up to the recommended 8,000 gallon cap. General service customers should be billed a BFC based on meter size and a uniform gallonage charge, which is 1.2 times greater than the residential gallonage charge consistent with Commission practice. Staff's recommended rate structure and rates for the wastewater system are shown on Schedule No. 4-B

Conclusion

The recommended rate structures and monthly water and wastewater rates are shown on Schedule Nos. 4-A and 4-B. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets provided customers have received notice pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The utility should provide proof of noticing within 10 days of rendering its approved notice.

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Issue 10: Should Four Lakes' service availability charge be discontinued?

Recommendation: Yes, Four Lakes' service availability charge should be discontinued. In the event there is new development in Four Lakes' service territory, the utility should file an application for new service availability charges. (Johnson)

Staff Analysis: Four Lakes currently has a service availability charge of \$1,818 that is for both water and wastewater service. A service availability charge is a one time charge collected by the utility when a property first connects to the utility system and it allows the utility to recover a portion of its investment as customers connect to the system. At this time, Four Lakes is completely built out. In order to serve new customers, the utility would need to install additional facilities. Therefore, staff recommends Four Lakes' customer connection charge should be discontinued. In the event there is new development in Four Lakes' service territory, the utility should file an application for new service availability charges.

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Issue 11: What is the appropriate amount by which rates should be reduced four years after the published effective date to reflect the removal of the amortized rate case expense?

Recommendation: The water and wastewater rates should be reduced as shown on Schedule Nos. 4-A and 4-B, to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period. The Utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If Four Lakes files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Johnson, Golden, Wilson) (Final Agency Action)

Staff Analysis: Four Lakes' water and wastewater rates should be reduced immediately following the expiration of the four-year rate case expense recovery period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense and the gross-up for RAFs which is \$1,436 and \$1,407 for water and wastewater, respectively. Using the Utility's current revenues, expenses, and customer base, the reduction in revenues will result in the rate decrease shown on Schedule Nos. 4-A and 4-B.

Four Lakes should be required to file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The Utility also should be required to file a proposed customer notice setting forth the lower rates and the reason for the reduction. If Four Lakes files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

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Issue 12: Should the recommended rates be approved for Four Lakes on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility?

Recommendation: Yes. Pursuant to Section 367.0814(7), F.S., the recommended rates should be approved for the Utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the Utility. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. Prior to implementation of any temporary rates, the Utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the Utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission Clerk's office no later than the 20th of every month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund. (Golden, Wilson) (Final Agency Action)

Staff Analysis: This recommendation proposes an increase in rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, pursuant to Section 367.0814(7), F.S., in the event of a protest filed by a party other than the Utility, staff recommends that the recommended rates be approved as temporary rates. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. The recommended rates collected by the Utility should be subject to the refund provisions discussed below.

The Utility should be authorized to collect the temporary rates upon staff's approval of an appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$105,339. Alternatively, the Utility could establish an escrow agreement with an independent financial institution.

If the Utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

1. The Commission approves the rate increase; or,
2. If the Commission denies the increase, the Utility shall refund the amount collected that is attributable to the increase.

If the Utility chooses a letter of credit as a security, it should contain the following conditions:

1. The letter of credit is irrevocable for the period it is in effect.
2. The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

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If security is provided through an escrow agreement, the following conditions should be part of the agreement:

1. The Commission Clerk, or his or her designee, must be a signatory to the escrow agreement.
2. No monies in the escrow account may be withdrawn by the Utility without the prior written authorization of the Commission Clerk, or his or her designee.
3. The escrow account shall be an interest bearing account.
4. If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
5. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility.
6. All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
7. The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
8. This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to *Cosentino v. Elson*, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.
9. The account must specify by whom and on whose behalf such monies were paid.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the Utility. Irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase should be maintained by the Utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The Utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility should file reports with the Commission Clerk's office no later than the 20th of every month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

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Issue 13: Should Four Lakes be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision?

Recommendation: Yes. The Utility should be required to notify the Commission, in writing, that it has adjusted its books in accordance with the Commission's decision. Four Lakes should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA primary accounts, as shown on Schedules No. 5-A and 5-B, have been made to the Utility's books and records. In the event the Utility needs additional time to complete the adjustments, notice should be provided no later than seven days prior to deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days. (Golden, Wilson) (Final Agency Action)

Staff Analysis: The Utility should be required to notify the Commission, in writing that it has adjusted its books in accordance with the Commission's decision. Schedules No. 5-A and 5-B reflects the accumulated plant, depreciation, CIAC, and amortization of CIAC balances as of August 31, 2016. Four Lakes should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA primary accounts, as shown on Schedule No. 5-A and 5-B, have been made to the Utility's books and records. In the event the Utility needs additional time to complete the adjustments, notice should be provided no later than seven days prior to deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days.

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Issue 14: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and that the pro forma projects have been completed. Once these actions are complete, this docket should be closed administratively. (Cuello)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and that the pro forma projects have been completed. Once these actions are complete, this docket should be closed administratively.

FOUR LAKES GOLF CLUB, LTD. TEST YEAR ENDED 8/31/2016 SCHEDULE OF WATER RATE BASE		SCHEDULE NO. 1-A DOCKET NO. 20160176-WS	
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUSTMENTS TO UTILITY BALANCE	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	\$704,613	\$123,794	\$828,407
2. LAND & LAND RIGHTS	38,979	0	38,979
3. NON-USED AND USEFUL COMPONENTS	0	0	0
4. CIAC	(507,425)	0	(507,425)
5. ACCUMULATED DEPRECIATION	(445,837)	134,889	(310,948)
6. AMORTIZATION OF CIAC	300,427	(35,888)	264,539
7. WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>18,331</u>	<u>18,331</u>
8. WATER RATE BASE	<u>\$90,757</u>	<u>\$241,126</u>	<u>\$331,883</u>

FOUR LAKES GOLF CLUB, LTD. TEST YEAR ENDED 8/31/2016 SCHEDULE OF WASTEWATER RATE BASE		SCHEDULE NO. 1-B DOCKET NO. 20160176-WS	
DESCRIPTION	BALANCE PER UTILITY	STAFF ADJUSTMENTS TO UTILITY BALANCE	BALANCE PER STAFF
1. UTILITY PLANT IN SERVICE	\$1,373,940	(\$370,165)	\$1,003,775
2. LAND & LAND RIGHTS	70,004	0	70,004
3. NON-USED AND USEFUL COMPONENTS	0	0	0
4. CIAC	(985,153)	0	(985,153)
5. ACCUMULATED DEPRECIATION	(920,248)	255,594	(664,654)
6. AMORTIZATION OF CIAC	583,996	(36,979)	547,017
7. WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>22,928</u>	<u>22,928</u>
8. WASTEWATER RATE BASE	<u>\$122,539</u>	<u>(\$128,622)</u>	<u>(\$6,083)</u>

FOUR LAKES GOLF CLUB, LTD.		SCHEDULE NO. 1-C	
TEST YEAR ENDED 8/31/2016		DOCKET NO. 20160176-WS	
ADJUSTMENTS TO RATE BASE			
	<u>WATER</u>	<u>WASTEWATER</u>	
<u>UTILITY PLANT IN SERVICE</u>			
1. To reflect removal of unsupported or non-utility plant.	(\$126,171)	(\$366,532)	
2. To reflect test year retirement of replaced pump for potable well #2.	(3,762)	0	
3. To reflect pro forma chlorinator replacement to Acct. No. 320.	1,200	0	
4. To reflect retirement of replaced chlorinator.	(161)	0	
5. To reflect pro forma hydropneumatic tank replacement to Acct. No. 330.	72,864	0	
6. To reflect pro forma meter replacements to Acct. No. 334.	193,499	0	
7. To reflect retirement of replaced meters.	(6,740)	0	
8. To reflect pro forma well shaft, pump and assembly to Acct. No. 311.	20,177	0	
9. To reflect an averaging adjustment.	<u>(\$27,113)</u>	<u>(\$3,633)</u>	
Total	<u>\$123,794</u>	<u>(\$370,165)</u>	
<u>ACCUMULATED DEPRECIATION</u>			
1. To reflect accumulated depreciation per Rule 25-30.140, F.A.C.	\$132,018	\$242,997	
2. To reflect test year retirement of replaced pump for potable well #2.	3,762	0	
2. To reflect pro forma chlorinator replacement to Acct. No. 320.	(61)	0	
2. To reflect retirement of replaced chlorinator.	161	0	
3. To reflect pro forma hydropneumatic tank replacement.	(2,208)	0	
4. To reflect pro forma meter replacements.	(10,986)	0	
5. To reflect retirement of replaced meters.	6,740	0	
6. To reflect pro forma well shaft, pump and assembly replacement.	(1,187)	0	
7. To reflect an averaging adjustment.	<u>6,650</u>	<u>12,597</u>	
Total	<u>\$134,889</u>	<u>\$255,594</u>	
<u>AMORTIZATION OF CIAC</u>			
1. To reflect appropriate amortization of CIAC	(\$28,482)	(\$24,698)	
2. To reflect an averaging adjustment.	<u>(7,406)</u>	<u>(12,281)</u>	
Total	<u>(\$35,888)</u>	<u>(\$36,979)</u>	
<u>WORKING CAPITAL ALLOWANCE</u>			
To reflect 1/8 of test year O&M expenses.	<u>\$18,331</u>	<u>\$22,928</u>	

FOUR LAKES GOLF CLUB, LTD. TEST YEAR ENDED 8/31/2016 SCHEDULE OF CAPITAL STRUCTURE						SCHEDULE NO. 2 DOCKET NO. 20160176-WS		
CAPITAL COMPONENT	PER UTILITY	STAFF ADJUST- MENTS	TEST YEAR BALANCE PER STAFF	ADJUSTMENTS TO RECONCILE TO RATE BASE	RECONCILED CAPITAL STRUCTURE PER STAFF	PERCENT OF TOTAL	COST	WEIGHTED COST
1. COMMON STOCK	\$0	\$0	\$0	\$0	\$0			
2. RETAINED EARNINGS	0	0	0	0	0			
3. PAID IN CAPITAL	0	0	0	0	0			
4. OTHER COMMON EQUITY	<u>0</u>	<u>286,540</u>	<u>286,540</u>	<u>(97,914)</u>	<u>188,626</u>			
TOTAL COMMON EQUITY	\$0	\$286,540	\$286,540	(\$97,914)	\$188,626	56.84%	9.96%	5.66%
5. LONG TERM DEBT	\$0	\$213,296	\$213,296	(\$72,886)	\$140,410	42.31%	3.73%	1.58%
6. SHORT-TERM DEBT	4,325	0	4,325	(1,478)	2,847	0.86%	8.32%	0.07%
7. PREFERRED STOCK	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	<u>0.00%</u>	<u>0.00%</u>
TOTAL DEBT	\$4,325	\$213,296	\$217,621	(\$74,364)	\$143,257	43.16%	12.05%	1.65%
8. CUSTOMER DEPOSITS	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>0.00%</u>	2.00%	<u>0.00%</u>
9. TOTAL	<u>\$4,325</u>	<u>\$499,836</u>	<u>\$504,161</u>	<u>(\$172,278)</u>	<u>\$331,883</u>	<u>100.00%</u>		<u>7.31%</u>
RANGE OF REASONABLENESS						<u>LOW</u>	<u>HIGH</u>	
RETURN ON EQUITY						<u>8.96%</u>	<u>10.96%</u>	
OVERALL RATE OF RETURN						<u>6.74%</u>	<u>7.88%</u>	

FOUR LAKES GOLF CLUB, LTD. TEST YEAR ENDED 8/31/2016 SCHEDULE OF WATER OPERATING INCOME			SCHEDULE NO. 3-A DOCKET NO. 20160176-WS		
	TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$142,371</u>	<u>\$649</u>	<u>\$143,020</u>	<u>\$73,366</u> 51.30%	<u>\$216,386</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$150,725	(\$2,703)	\$148,022	\$0	\$148,022
3. DEPRECIATION (NET)	1,357	14,573	15,930	0	15,930
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	12,585	12,287	24,872	3,301	28,174
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$164,667</u>	<u>\$24,157</u>	<u>\$188,824</u>	<u>\$3,301</u>	<u>\$192,125</u>
8. OPERATING INCOME/(LOSS)	<u>(\$22,296)</u>		<u>(\$45,804)</u>		<u>\$24,261</u>
9. WATER RATE BASE	<u>\$90,757</u>		<u>\$331,883</u>		<u>\$331,883</u>
10. RATE OF RETURN	<u>(24.57%)</u>		<u>(13.80%)</u>		<u>7.31%</u>

FOUR LAKES GOLF CLUB, LTD. TEST YEAR ENDED 8/31/2016 SCHEDULE OF WASTEWATER OPERATING INCOME			SCHEDULE NO. 3-B DOCKET NO. 20160176-WS		
	TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	<u>\$142,994</u>	<u>(\$681)</u>	<u>\$142,313</u>	<u>\$83,502</u> 58.67%	<u>\$225,815</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$173,861	\$10,903	\$184,764	\$0	\$184,764
3. DEPRECIATION (NET)	14,011	(13,468)	543	0	543
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	17,392	9,358	26,750	3,758	30,508
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	<u>\$205,264</u>	<u>\$6,793</u>	<u>\$212,057</u>	<u>\$3,758</u>	<u>\$215,815</u>
8. OPERATING INCOME/(LOSS)	<u>(\$62,270)</u>		<u>(\$69,744)</u>		<u>\$10,000</u>
9. WASTEWATER RATE BASE	<u>\$122,539</u>		<u>(\$6,083)</u>		<u>\$0</u>
10. RATE OF RETURN	<u>(50.82%)</u>				
11. OPERATING RATIO					<u>5.41%</u>

FOUR LAKES GOLF CLUB, LTD. TEST YEAR ENDED 8/31/2016 ADJUSTMENTS TO OPERATING INCOME		SCHEDULE NO. 3-C DOCKET NO. 20160176-WS Page 1 of 3	
		<u>WATER</u>	<u>WASTEWATER</u>
OPERATING REVENUES			
.	To reflect appropriate test year service revenues.	<u>\$649</u>	<u>(\$681)</u>
OPERATION AND MAINTENANCE EXPENSES			
1.	Salaries and Wages - Employees (601/701)		
	a. To reflect appropriate test year allocated salaries.	\$15	\$281
	b. To reclassify test year payroll taxes to taxes other than income.	(6,848)	(7,736)
	c. To reflect pro forma allocated share of corporate payroll.	11,744	11,458
	d. To reflect pro forma change from quarterly to monthly billing.	<u>3,954</u>	<u>3,858</u>
	Subtotal	<u>\$8,865</u>	<u>\$7,861</u>
2.	Purchased Power (615/715)		
	a. To reflect annualized purchased power expense.	\$1,925	\$2,934
	b. To remove late fees and out-of-period expenses.	(686)	(476)
	c. To remove non-utility and unsupported expenses.	(23,282)	(633)
	d. To reflect excessive unaccounted for water.	<u>(714)</u>	<u>0</u>
	Subtotal	<u>(\$22,756)</u>	<u>\$1,826</u>
3.	Chemicals (618/718)		
	a. To reflect test year chemicals expense.	(\$279)	(\$268)
	b. To reflect excessive unaccounted for water.	<u>(336)</u>	<u>0</u>
	Subtotal	<u>(\$615)</u>	<u>(\$268)</u>
4.	Materials and Supplies (620/720)		
	a. To remove out-of-period and unsupported expenses.	(\$947)	\$0
	b. To reflect appropriate wastewater test year expense.	<u>0</u>	<u>1,829</u>
	Subtotal	<u>(\$947)</u>	<u>\$1,829</u>
5.	Contractual Services - Billing (630/730)		
	a. To reflect pro forma allocation of corporate billing expense.	\$1,476	\$1,440
	b. To reflect pro forma change from quarterly to monthly billing.	<u>\$2,618</u>	<u>\$2,555</u>
	Subtotal	<u>\$4,095</u>	<u>\$3,995</u>
6.	Contractual Services – Professional (631/731)		
	a. To reflect the appropriate test year expense.	<u>\$0</u>	<u>(\$5,930)</u>
7.	Contractual Services - Testing (635/735)		
	a. To reclassify equipment testing services to Accts. No. 636 & 736.	(\$2,488)	(\$250)
	b. To annualize monthly water testing expense.	219	0
	c. To reflect appropriate test year wastewater testing expense.	<u>0</u>	<u>(1,346)</u>
	Subtotal	<u>(\$2,268)</u>	<u>(\$1,596)</u>
8.	Contractual Services - Other (636/736)		
	a. To reflect appropriate test year contractual services - other expense.	\$275	(\$2,389)
	b. To reclassify equipment testing services from Accts. No. 635 & 735.	2,488	250
	c. To reclassify contractual services from Acct. No. 775.	<u>0</u>	<u>1,620</u>
	Subtotal	<u>\$2,763</u>	<u>(\$519)</u>

FOUR LAKES GOLF CLUB, LTD.		SCHEDULE NO. 3-C	
TEST YEAR ENDED 8/31/2016		DOCKET NO. 20160176-WS	
ADJUSTMENTS TO OPERATING INCOME		Page 2 of 3	
9.	Rents (640/740)		
	a. To reflect pro forma allocation of corporate rental expense.	\$3,320	\$3,239
	b. To reflect pro forma allocation of corporate equipment rental expense.	<u>64</u>	<u>62</u>
	Subtotal	<u>\$3,384</u>	<u>\$3,302</u>
10.	Transportation Expense (650/750)		
	a. To reflect appropriate test year transportation expense.	(\$1,043)	(\$3,713)
	b. To reflect pro forma allocation of utility truck expense.	1,359	1,359
	c. To reflect pro forma allocation of tractor expense.	1,295	1,295
	d. To reflect pro forma allocation of corporate transportation expense.	<u>607</u>	<u>592</u>
	Subtotal	<u>\$2,219</u>	<u>(\$466)</u>
11.	Insurance Expense (655/755)		
	a. To reflect appropriate test year insurance expense.	\$665	(\$651)
	b. To reflect pro forma allocation of corporate insurance expense.	<u>230</u>	<u>225</u>
	Subtotal	<u>\$896</u>	<u>(\$426)</u>
12.	Regulatory Commission Expense (665/765)		
	a. To remove rate case expense per Section 367.0814(3), F.S.	(\$540)	(\$540)
	b. To reflect 4-year amortization of rate case expense (\$10,859 total, split \$5,484/4 for water and \$5,375/4 for wastewater).	<u>1,371</u>	<u>1,344</u>
	Subtotal	<u>\$831</u>	<u>\$804</u>
13.	Miscellaneous Expense (675/775)		
	a. To reflect appropriate test year miscellaneous expense.	(\$538)	\$777
	b. To reclassify contractual services to Acct. No. 736.	0	(1,620)
	c. To reflect pro forma allocation of corporate equipment expense.	459	448
	d. To reflect pro forma allocation of corporate miscellaneous expense.	<u>910</u>	<u>888</u>
	Subtotal	<u>\$831</u>	<u>\$493</u>
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS		<u>(\$2,703)</u>	<u>\$10,903</u>
DEPRECIATION EXPENSE			
1.	To reflect test year depreciation calculated per Rule 25-30.140, F.A.C.	(\$2,655)	(\$23,987)
2.	To reflect test year retirement of replaced pump for potable well #2.	(110)	0
2.	To reflect pro forma chlorinator replacement to Acct. No. 320.	71	0
3.	To reflect retirement of replaced chlorinator.	(10)	0
3.	To reflect pro forma hydropneumatic tank replacement.	2,208	0
4.	To reflect pro forma meter replacements.	11,382	0
5.	To reflect retirement of replaced meters.	(396)	0
6.	To reflect pro forma well pump, shaft, and assembly replacement.	1,187	0
7.	To reflect appropriate test year CIAC amortization expense.	<u>2,896</u>	<u>10,519</u>
	Total	<u>\$14,573</u>	<u>(\$13,468)</u>

FOUR LAKES GOLF CLUB, LTD. TEST YEAR ENDED 8/31/2016 ADJUSTMENTS TO OPERATING INCOME		SCHEDULE NO. 3-C DOCKET NO. 20160176-WS Page 3 of 3	
TAXES OTHER THAN INCOME			
1.	To reflect the appropriate test year RAFs.	\$45	\$135
2.	To reflect the appropriate test year payroll taxes.	6,848	7,736
3.	To reflect pro forma increase in payroll taxes.	1,513	1,487
4.	To reflect pro forma increase to utility property taxes.	<u>3,882</u>	<u>0</u>
	Total	<u>\$12,287</u>	<u>\$9,358</u>

FOUR LAKES GOLF CLUB, LTD.		SCHEDULE NO. 3-D	
TEST YEAR ENDED 8/31/2016		DOCKET NO. 20160176-WS	
ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE			
	TOTAL PER UTILITY	STAFF ADJUST- MENTS	TOTAL PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	\$74,356	\$8,865	\$83,221
(603) SALARIES AND WAGES - OFFICERS	0	0	0
(604) EMPLOYEE PENSIONS AND BENEFITS	0	0	0
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	31,953	(22,756)	9,197
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	4,942	(615)	4,327
(620) MATERIALS AND SUPPLIES	9,673	(947)	8,726
(630) CONTRACTUAL SERVICES - BILLING	0	4,095	4,095
(631) CONTRACTUAL SERVICES - PROFESSIONAL	4,962	0	4,962
(635) CONTRACTUAL SERVICES - TESTING	2,806	(2,268)	538
(636) CONTRACTUAL SERVICES - OTHER	10,288	2,763	13,051
(640) RENTS	0	3,384	3,384
(650) TRANSPORTATION EXPENSE	5,079	2,219	7,298
(655) INSURANCE EXPENSE	2,144	896	3,040
(665) REGULATORY COMMISSION EXPENSE	540	831	1,371
(670) BAD DEBT EXPENSE	26	0	26
(675) MISCELLANEOUS EXPENSE	<u>3,956</u>	<u>831</u>	<u>4,787</u>
	<u>\$150,725</u>	<u>(\$2,703)</u>	<u>\$148,022</u>

FOUR LAKES GOLF CLUB, LTD.		SCHEDULE NO. 3-E	
TEST YEAR ENDED 8/31/2016		DOCKET NO. 20160176-WS	
ANALYSIS OF WASTEWATER OPERATION AND MAINTENANCE EXPENSE			
	TOTAL PER UTILITY	STAFF ADJUST- MENTS	TOTAL PER STAFF
(701) SALARIES AND WAGES - EMPLOYEES	\$83,921	\$7,861	\$91,782
(703) SALARIES AND WAGES - OFFICERS	0	0	0
(704) EMPLOYEE PENSIONS AND BENEFITS	0	0	0
(710) PURCHASED SEWAGE TREATMENT	0	0	0
(711) SLUDGE REMOVAL EXPENSE	21,540	0	21,540
(715) PURCHASED POWER	15,669	1,826	17,495
(716) FUEL FOR POWER PRODUCTION	0	0	0
(718) CHEMICALS	15,626	(268)	15,358
(720) MATERIALS AND SUPPLIES	4,288	1,829	6,117
(730) CONTRACTUAL SERVICES - BILLING	0	3,995	3,995
(731) CONTRACTUAL SERVICES - PROFESSIONAL	10,250	(5,930)	4,320
(735) CONTRACTUAL SERVICES - TESTING	6,651	(1,596)	5,055
(736) CONTRACTUAL SERVICES - OTHER	4,229	(519)	3,710
(740) RENTS	0	3,302	3,302
(750) TRANSPORTATION EXPENSE	6,800	(466)	6,334
(755) INSURANCE EXPENSE	2,539	(426)	2,113
(765) REGULATORY COMMISSION EXPENSE	540	804	1,344
(770) BAD DEBT EXPENSE	26	0	26
(775) MISCELLANEOUS EXPENSE	<u>1,782</u>	<u>493</u>	<u>2,275</u>
	<u>\$173,861</u>	<u>\$10,903</u>	<u>\$184,764</u>

FOUR LAKES GOLF CLUB, LTD. TEST YEAR ENDED AUGUST 31, 2016 MONTHLY WATER RATES		SCHEDULE NO. 4-A DOCKET NO. 20160176-WS	
	UTILITY CURRENT RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential, General, and Irrigation Service</u>			
Base Facility Charge by Meter Size			
5/8"X3/4"	\$13.09	\$10.21	\$0.07
3/4"		\$15.32	\$0.11
1"		\$25.53	\$0.18
1-1/2"		\$51.05	\$0.35
2"		\$81.68	\$0.56
3"		\$163.36	\$1.12
4"		\$255.25	\$1.75
6"		\$510.50	\$3.50
Charge per 1,000 gallons – Residential Service			
0 - 5,000 gallons	\$0.00	N/A	
Over 5,000 gallons	\$0.53	N/A	
0 - 3,000 gallons	N/A	\$1.57	\$0.01
Over 3,000 gallons	N/A	\$1.89	\$0.01
Charge per 1,000 gallons – General Service			
0 - 5,000 gallons	\$0.00	N/A	\$0.01
Over 5,000 gallons	\$0.53	N/A	
Charge per 1,000 gallons – Irrigation Service			
0 - 5,000 gallons	\$0.00	\$1.75	\$0.01
Over 5,000 gallons	\$0.53	N/A	
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$13.09	\$14.92	
5,000 Gallons	\$13.09	\$18.70	
8,000 Gallons	\$14.68	\$24.37	

FOUR LAKES GOLF CLUB, LTD. TEST YEAR ENDED AUGUST 31, 2016 MONTHLY WASTEWATER RATES		SCHEDULE NO. 4-B DOCKET NO. 20160176-WS	
	UTILITY CURRENT RATES	STAFF RECOMMENDED RATES	4 YEAR RATE REDUCTION
<u>Residential Service</u>			
All Meter Sizes	\$13.09	\$10.99	\$0.07
Charge per 1,000 gallons – Residential Service 8,000 gallon cap	N/A	\$2.06	\$0.01
0 - 5,000 gallons	\$0.00	N/A	
Over 5,000 gallons	\$0.52	N/A	
<u>General Service</u>			
Base Facility Charge by Meter Size			
All Meter Sizes	\$13.09	N/A	
5/8" x 3/4"	N/A	\$10.99	\$0.07
3/4"	N/A	\$16.49	\$0.10
1"	N/A	\$27.48	\$0.18
1-1/2"	N/A	\$54.95	\$0.35
2"	N/A	\$87.92	\$0.56
3"	N/A	\$175.84	\$1.12
4"	N/A	\$274.75	\$1.75
6"	N/A	\$549.50	\$3.50
Charge per 1,000 gallons - General Service	N/A	\$2.47	\$0.02
0 - 5,000 gallons	\$0.00	N/A	
Over 5,000 gallons	\$0.52	N/A	
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$13.09	\$17.17	
5,000 Gallons	\$13.09	\$21.29	
8,000 Gallons	\$14.65	\$27.47	

FOUR LAKES GOLF CLUB, LTD.			SCHEDULE NO. 5-A	
TEST YEAR ENDED 8/31/2016			DOCKET NO. 20160176-WS	
SCHEDULE OF WATER PLANT, DEPRECIATION, CIAC, & CIAC AMORTIZATION BALANCES				
ACCT NO.	DEPR. RATE PER RULE 25-30.140	DESCRIPTION	UPIS 8/31/2016 (DEBIT)*	ACCUM. DEPR. 8/31/2016 (CREDIT)*
301	2.50%	Organization	\$0	\$0
302	2.50%	Franchises	0	0
303		Land and Land Rights (Non-Depreciable)	38,979	0
304	3.57%	Structures and Improvements	20,052	15,602
307	3.70%	Wells and Springs	141,226	70,535
309	3.13%	Supply Mains	2,213	1,464
310	5.88%	Power Generation Equipment	27,304	27,304
311	5.88%	Pumping Equipment	22,960	780
320	5.88%	Water Treatment Equipment	22,068	22,068
330	3.03%	Distribution Reservoirs and Standpipes	0	0
331	2.63%	Transmission and Distribution Mains	246,618	126,038
333	2.86%	Services	62,290	33,242
334	5.88%	Meters and Meter Installations	6,740	6,163
335	2.50%	Hydrants	19,160	5,578
340	16.67%	Office Furniture and Equipment	0	0
345	5.00%	Power Operated Equipment	0	0
349	10.00%	Other Tangible Plant	<u>4,050</u>	<u>1,283</u>
		Total Including Land	<u>\$613,659</u>	<u>\$310,057</u>
			CIAC AMORT. 8/31/2016 (DEBIT)*	CIAC 8/31/2016 (CREDIT)
			<u>\$312,504</u>	<u>\$507,425</u>
*The plant and accumulated depreciation balances exclude all pro forma plant additions. Also, the plant, accumulated depreciation, and CIAC amortization balances exclude the staff-recommended averaging adjustments that are only used for ratesetting purposes and should not be reflected on the utility’s books.				

FOUR LAKES GOLF CLUB, LTD.			SCHEDULE NO. 5-B	
TEST YEAR ENDED 8/31/2016			DOCKET NO. 20160176-WS	
SCHEDULE OF WASTEWATER PLANT, DEPRECIATION, CIAC, & CIAC AMORT. BALANCES				
ACCT NO.	DEPR. RATE PER RULE 25-30.140	DESCRIPTION	UPIS 8/31/2016 (DEBIT)*	ACCUM. DEPR. 8/31/2016 (CREDIT)*
351	2.50%	Organization	\$0	\$0
352	2.50%	Franchises	0	0
353		Land and Land Rights (Non-Depreciable)	70,004	0
354	3.70%	Structures and Improvements	181,358	123,229
360	3.70%	Collection Sewers - Force	10,494	8,370
361	2.50%	Collection Sewers - Gravity	398,113	212,153
363	2.86%	Services to Customers	96,494	54,133
364	20.00%	Flow Measuring Devices	17,584	15,953
365	2.86%	Flow Measuring Installations	0	0
370	5.56%	Receiving Wells	37,693	35,258
371	5.56%	Pumping Equipment	20,536	4,353
380	5.56%	Treatment and Disposal Equipment	200,139	193,274
381	3.13%	Plant Sewers	43,416	26,946
389	6.67%	Other Plant and Misc. Equipment	0	0
390	16.67%	Office Furniture and Equipment	0	0
395	5.00%	Power Operated Equipment	<u>1,579</u>	<u>1,579</u>
		Total Including Land	<u>\$1,077,411</u>	<u>\$675,248</u>
			CIAC AMORT. 8/31/2016 (DEBIT)*	CIAC 8/31/2016 (CREDIT)
			<u>\$559,298</u>	<u>\$985,153</u>
*The plant, accumulated depreciation, and CIAC amortization balances exclude the staff-recommended averaging adjustments that are only used for ratesetting purposes and should not be reflected on the utility's books.				

Item 5

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Ellis, Thompson)
Office of the General Counsel (Murphy)

RE: Docket No. 20170122-EI – Petition for exemption under Rule 25-22.082(18), F.A.C., from issuing a request for proposals (RFPs) for modernization of the Lauderdale Plant, by Florida Power & Light Company.

AGENDA: 11/07/17 – Regular Agenda – Motion for Reconsideration – Oral Argument Not Requested – Participation at the Discretion of the Commission.

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

By Proposed Agency Action Order No. PSC-2017-0287-PAA-EI, issued in this Docket on July 24, 2017 (PAA Order), the Florida Public Service Commission (Commission) proposed to grant Florida Power & Light Company's (FPL) Petition for Exemption from the "Bid Rule," which is codified at Rule 25-22.082, Florida Administrative Code (F.A.C.). The exemption was granted pursuant to subsection (18) of that Rule.

On August 14, 2017, Sierra Club filed a Petition to Intervene and Protest the PAA Order (Protest). In accordance with the PAA Order, this was the last day that a protest of the PAA Order was timely. On August 21, 2017, FPL filed its Response to Sierra Club's Protest (Response). On August 25, 2017, Sierra Club filed its Motion for Leave to File a Reply to FPL's Response and attached its Reply. On September 1, 2017, FPL filed its Motion for Leave to File

a Reply and Proposed Reply. By Order No. PSC-2017-0358-PCO-EI, issued on September 20, 2017, (Order Denying Sierra Club's Protest) the prehearing officer denied Sierra Club's Protest.

On October 2, 2017, Innovative Solar Systems, LLC (ISS) filed its Petition to Intervene and Motion for Reconsideration of the Order Denying Sierra Club's Protest (ISS Petition and Motion). On October 9, 2017, FPL filed its Response in Opposition to the ISS Petition and Motion. (Response in Opposition). The ISS Petition and Motion and the FPL Response in Opposition are the subject of this staff recommendation.

Generally, in its Petition and Motion, ISS asserts that Sierra Club's Protest was denied because Sierra Club's interests were not substantially affected since Sierra Club is neither a potential generation supplier for FPL's anticipated need, nor a potential Request for Proposals (RFP) participant. ISS attempts to cure Sierra Club's deficiency by asserting that ISS is such a supplier and potential RFP participant and will be substantially affected by the Commission's decision in this docket. ISS asks that it be permitted to intervene, that the Order Denying Sierra Club's Protest be vacated, and that the Commission reverse the PAA Order and deny FPL's Petition for Exemption.

In its Response in Opposition, FPL argues that the ISS Petition and Motion is legally deficient because: ISS did not file a timely protest to the PAA Order; there is no pending proceeding to provide ISS a point of entry in light of the Order Denying Sierra Club's Petition; as a nonparty ISS cannot seek reconsideration of the Order Denying Sierra Club's Petition; ISS cannot cure Sierra Club's lack of standing by "stepping into its shoes;" and finally, even if ISS's standing could be established, ISS has identified no mistake of fact or law in the Order Denying Sierra Club's Protest that would warrant reconsideration of that Order. FPL asks that the ISS Petition and Motion be denied and that the Commission issue an order consummating the PAA Order which granted FPL the exemption from the bid rule.

Oral Argument was not requested. The Commission has jurisdiction pursuant to Chapter 120, Florida Statutes (F.S.), and Rule 25-22.029, F.A.C.

Discussion of Issues

Issue 1: Should the Commission grant ISS's Petition to Intervene?

Recommendation: No. The Commission should deny ISS's Petition to Intervene. (Murphy)

Staff Analysis: Staff recommends that ISS is not timely in its attempt to intervene and participate in this PAA docket.

Rule 25-22.029(1) and (3), F.A.C., establish the point of entry into a proposed agency action proceeding, and provide, in pertinent part, the following:

(1) After agenda conference, the Office of Commission Clerk, shall issue written notice of the proposed agency action (PAA), advising all parties of record that . . . they have 21 days after issuance of the notice in which to file a request for a Section 120.569 or 120.57, F.S., hearing.

* * *

(3) One whose substantial interests may or will be affected by the Commission's proposed action may file a petition for a Section 120.569 or 120.57, F.S., hearing, in the form provided by Rule 28-106.201, F.A.C. Any such petition shall be filed within the time stated in the notice issued pursuant to subsection (1) of this rule, and shall identify the particular issues in the proposed action that are in dispute.

The Commission provided the following notice language in the PAA Order:

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 14, 2017. (Emphasis original).

ISS is asking 1) to intervene in the PAA docket, 2) for the Commission to reconsider the procedural order that denied Sierra Club standing to protest the PAA Order (based upon new facts and ISS replacing Sierra Club for purposes of establishing standing), and 3) for the Commission to reverse the PAA Order (based upon these new facts and ISS's asserted standing). The effect of granting the ISS Petition and Motion would be for ISS to substitute itself for Sierra Club to establish standing that Sierra Club did not have, and then rely upon the timeliness of the Sierra Club's Protest of the PAA Order to reverse the PAA Order which ISS failed to timely protest.

Moreover, by asking that the Commission reconsider the Order Denying Sierra Club's Protest, ISS implicitly asks that the Commission determine that Sierra Club had standing to Intervene in

Date: October 26, 2017

this docket; however, ISS's pleadings are void of any argument on that point and instead conflate the status of ISS, as if it had made a timely protest, with Sierra Club.

The parties' arguments on intervention are set forth below.

ISS Petition and Motion

ISS asserts that it is a nationwide utility-scale solar farm developer with three utility-scale solar farms under development in Florida and would submit these three projects in an RFP issued by FPL. Efforts by ISS to discuss a direct power purchase agreement (PPA) with FPL have been unsuccessful and FPL has indicated that it has no interest in signing a solar PPA with ISS. Thus, ISS asserts that a mandatory RFP is the only avenue by which FPL would be required to consider more cost-effective, clean alternatives for the modernization of FPL's Lauderdale Plant and ISS will suffer injury if it is prevented from offering these projects to FPL for consideration. ISS argues that this is the type of injury this docket is designed to prevent.

ISS argues that by exempting FPL from the bid requirement, the Commission is giving FPL permission to continue to ignore clean, renewable, more cost-effective alternatives and thwarting the development of renewables in Florida. ISS takes issue with the basis of the underlying PAA Order as it relates to the effects of modernizing a gas plant by building a larger gas plant. ISS avers that, if given the opportunity, it can demonstrate that solar is superior to natural gas. ISS asserts that its interests are substantially affected, and it will suffer an injury in fact as a result of the Commission granting FPL the exemption from the Bid Rule. In sum, ISS argues that it meets the requirements for standing as set forth in *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981) *rehearing denied*, 415 So.2d 1359 (Fla. 1982). As such ISS asks that it be permitted to intervene in this docket, that the Commission vacate the Order Denying Sierra Club's Protest, and that the Commission reverse the PAA Order and deny FPL's petition for exemption from the Bid Rule.

FPL Response in Opposition

FPL asserts that the Commission should deny ISS's petition to intervene because it is legally deficient for the following reasons: (1) ISS failed to file a protest within 21 days of the issuance of the Commission's PAA Order granting FPL's petition for an exemption of the Bid Rule as required by Rule 25-22.029, F.A.C., which governs protests of PAA Orders. Sierra Club is the only entity that filed a timely protest. ISS can neither refute that fact nor attempt to latch on to Sierra Club's Protest in order to comply with the protest deadline set by the PAA Order. (2) There is no pending proceeding to provide a point of entry for intervention by ISS under Rules 25-22.029 and 25-22.039, F.A.C., in light of the Order denying Sierra Club's Protest. Rule 25-22.039, F.A.C., governing intervention in Commission proceedings, only allows intervention in a pending proceeding before the Commission. Rule 25-22.029, F.A.C., governs points of entry into a PAA proceeding before the Commission, and provides for a point of entry to a proceeding only if a timely protest is filed by a substantially affected person within 21 days of the issuance of the PAA Order. Because Sierra Club did not seek reconsideration of the Order Denying Sierra Club's Protest by the deadline for motions for reconsideration, there was no "pending proceeding" that would have provided ISS a point of entry for its petition to intervene in this proceeding.

Date: October 26, 2017

Conclusion

While ISS *might* otherwise have standing to intervene in a docket and protest a PAA Order, or to seek reconsideration of a procedural order if it established standing on its own and timely protested the issuance of a PAA Order, staff recommends that, in the instant case, FPL is persuasive in its argument that ISS is not timely in its attempt to intervene and participate in this docket. The protest of the PAA Order had to be filed by August 14, 2017. ISS filed its Petition and Motion on October 2, 2017. By the Order Denying Sierra Club's Protest, the prehearing officer determined that Sierra Club lacked standing to intervene and protest the PAA Order that granted FPL the RFP exemption. Staff recommends that ISS cannot properly rely on Sierra Club's timely protest of the PAA Order and then substitute itself for Sierra Club to establish "injuries in fact" for purposes of standing pursuant to *Agrico Chemical Company v. Department of Environmental Regulation*,¹ and thereby revive both Sierra Club's standing and the underlying Protest. Thus, staff recommends that ISS's Petition to Intervene should be denied.

Staff does observe that, as with Sierra Club, there is nothing preventing ISS from petitioning the Commission to intervene in the underlying need determination proceeding that will address the modernization of the Lauderdale Plant. Docket No. 20170225-EI, *Petition for determination of need for Dania Beach Clean Energy Center by Florida Power & Light Company*, has recently been opened to address that subject and all elements of that case must be proven by FPL. Moreover, if ISS believes that FPL has refused to purchase renewable power from ISS and that FPL is legally required to do so, ISS can file a complaint with the Commission based upon that concern.

¹ 406 So.2d 478 (Fla. 2d DCA 1981) *rehearing denied*, 415 So.2d 1359 (Fla. 1982).

Date: October 26, 2017

Issue 2: Should the Commission grant ISS's Motion for Reconsideration of the Order Denying Sierra Club's Petition?

Recommendation: No. The Commission should deny ISS's Motion for Reconsideration of the Order Denying Sierra Club's Petition. (Murphy)

Staff Analysis: The legal standard for reconsideration of an order is to bring to the attention of the administrative agency some point of fact or law that it overlooked or failed to consider when it rendered its order. *Diamond Cab Company of Miami v. King*, 140 So.2d 889, 891 (Fla. 1962); *Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So.2d 315 (Fla. 1974); *Pingree v. Quaintance*, 394 So.2d 161 (Fla. 1st DCA 1981). Notwithstanding that ISS impermissibly attempts to use a motion for reconsideration to substitute itself for Sierra Club in order to cure Sierra Club's lack of standing, ISS also fails to meet the standard for reconsideration. Thus, the Commission should deny ISS's Motion for Reconsideration of the Order Denying Sierra Club's Protest.

ISS Petition and Motion

ISS asserts that it is a nationwide utility-scale solar farm developer and would submit projects in response to an RFP in this docket. ISS takes exception to the decision reached by the Commission in the PAA Order issued in this docket. ISS argues that it is substantially affected by the Order Denying Sierra Club's Protest, and that FPL has not been interested in signing a solar PPA with ISS.

FPL Response in Opposition

FPL asserts that ISS cannot attempt to cure Sierra Club's lack of standing, as determined by the Prehearing Officer in the Order Denying Sierra Club's Protest, by "stepping into [Sierra Club's] shoes" and then seeking reconsideration of that Order. FPL avers that ISS is attempting to take up the procedural mantle of the Sierra Club protest, a procedural vehicle which ISS did not file itself within the 21-day deadline required by Rule 25-22.029, F.A.C. FPL contends that, by its Motion for Reconsideration, ISS is trying to provide Sierra Club with a "third bite" at the apple in this docket. FPL asserts that, because ISS failed to timely intervene or protest the PAA Order, ISS is not a party to this proceeding. Thus, ISS cannot seek reconsideration of the Order Denying Sierra Club's Protest pursuant to Rule 25-22.0376, F.A.C., which limits such motions to a "party."

FPL further asserts that, even if the Commission permits ISS to intervene in this proceeding, ISS has failed to identify a single mistake of fact or law in Order No. PSC-2017-0358-PCO-EI. FPL argues that, pursuant to Rule 25-22.0376, F.A.C., and well established legal precedent, the standard for reconsideration of the Order is to bring to the Commission's attention some point of fact or law that was overlooked or failed to be considered when the Prehearing Officer rendered

Date: October 26, 2017

the Order.² FPL argues that ISS has failed to meet this burden and thus, has failed to establish any lawful ground for reconsideration of the Order Denying Sierra Club's Protest.

Conclusion

While acknowledging that Sierra Club was denied standing for "failure to demonstrate that their interests would be substantially affected," ISS fails to identify any mistake of fact or law, in the Order Denying Sierra Club's Protest, that would have supported Sierra Club's standing. Instead, ISS attempts to cure Sierra Club's lack of standing by alleging new facts which are intended to demonstrate ISS's own standing to protest the Commission's PAA Order which ISS failed to timely protest. Stated differently, ISS attempts to substitute itself for Sierra Club to bolster the allegations in Sierra Club's Protest by making new arguments to cure Sierra Club's deficient pleading and, in turn, seeks reconsideration. A party cannot use reconsideration to make new arguments or seek to bolster a deficient pleading. *See* Order No. PSC-11-0097-FOF-WS, Issued on February 2, 2011, in Docket No 100318-WS, *In re: Petition for order to show cause against Service Management Systems, Inc. in Brevard County for failure to properly operate and manage water and wastewater system*. ("A motion for reconsideration is not the appropriate vehicle for bolstering allegations and making new arguments to cure an earlier, deficient pleading.").

Because ISS has failed to bring to the Commission's attention some point of fact or law that the Prehearing Officer overlooked or failed to consider in the Order Denying Sierra Club's Protest, ISS has failed to meet the standards for reconsideration set forth in *Diamond Cab Company of Miami v. King*, *Stewart Bonded Warehouse, Inc. v. Bevis*, and *Pingree v. Quaintance*. Therefore, staff recommends that the Commission should deny ISS's Motion for Reconsideration of the Order Denying Sierra Club's Protest.

² *See, e.g., In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 160021-EI, *In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company*, Docket No. 160061-EI, *In re: 2016 depreciation and dismantlement study by Florida Power & Light Company*, Docket No. 160062-EI, *In re: Petition for limited proceeding to modify and continue incentive mechanism, by Florida Power & Light Company*, Docket No. 160088-EI, Order No. PSC-16-0231-FOF-EI (F.P.S.C., June 10, 2016) (denying motion for reconsideration and citing *Diamond Cab Company of Miami v. King*, 140 So.2d 889, 891 (Fla. 1962); *Stewart Bonded Warehouse, Inc. v. Bevis*, 294 So.2d 315 (Fla. 1974); *Pingree v. Quaintance*, 394 So.2d 161 (Fla. 1st DCA 1981)).

Issue 3: Should this docket be closed?

Recommendation: Yes. The PAA Order at issue in this docket is final upon the issuance of a consummating order. If the Commission agrees with the staff recommendation in either Issue 1 or 2 of this recommendation, this docket should be closed upon the issuance of an order consummating Order No. PSC-2017-0287-PAA-EI. (Murphy)

Staff Analysis: The PAA Order at issue in this docket is final upon the issuance of a consummating order. If the Commission agrees with the staff recommendation in either Issue 1 or 2 of this recommendation, this docket should be closed upon the issuance of an order consummating Order No. PSC-2017-0287-PAA-EI.

Item 6

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Thompson, Ellis) *TT POE*
Division of Economics (Higgins) *DU WAM*
Office of the General Counsel (DuVal) *THA* *TR*

RE: Docket No. 20170169-EI – Petition of Gulf Power Company for approval of negotiated renewable energy power purchase agreement with Bay County, Florida.

AGENDA: 11/07/17 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: May 28, 2018 – Pursuant to the Contract, either party may terminate the agreement if the Commission has not approved it within 300 days of the petition's filing date.

SPECIAL INSTRUCTIONS: None

Case Background

On August 1, 2017, Gulf Power Company (Gulf) filed a petition requesting approval of a negotiated renewable energy contract (Contract) with Bay County, Florida, for the purchase of energy. The Contract was executed on July 21, 2017, and provides for Gulf to purchase the entire net electrical output, 13.65 megawatts (MW), from the Bay County Resource Recovery Facility at a fixed price for six years beginning on July 23, 2017. This Contract is a continuation of two previous contracts executed between Gulf and Bay County, in 2008¹ and 2014² respectively,

¹Order No. PSC-09-0012-PAA-EI, issued January 5, 2009, in Docket No. 080612-EI, *In re: Petition of Gulf Power Company for approval of negotiated renewable energy power purchase agreement with Bay County, Florida.*

which were approved by the Commission. In addition to the purchase of energy, the Contract specifies that Gulf will receive all “Renewable Attributes,” such as Renewable Energy Credits (RECs), green tags, carbon credits or allowances, or other tradable environmental interests associated with the generation of electricity from the facility.

This recommendation addresses Gulf’s petition for approval of the Contract with Bay County. The Commission has jurisdiction over this matter pursuant to Sections 366.051 and 366.81, Florida Statutes (F.S.).

²Order No. PSC-14-0701-FOF-EI, issued December 19, 2014, in Docket No. 140001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

Discussion of Issues

Issue 1: Should the Commission approve Gulf Power Company's petition for approval of a negotiated renewable energy power purchase agreement (PPA) with Bay County, Florida?

Recommendation: Yes. Payments for energy are expected to produce net present value (NPV) savings of approximately \$250,000 over the term of the Contract. Also, the Contract is substantially similar to the contracts between Gulf and Bay County previously approved by the Commission. Therefore, staff recommends that the Commission approve Gulf's petition for approval of a negotiated renewable energy PPA with Bay County, Florida. Staff further recommends that Gulf should be permitted to petition for recovery of costs associated with the Contract through the Fuel and Purchased Power Recovery Clause. As part of the Contract, Gulf will receive any renewable attributes or RECs resulting from electrical energy generated at the Bay County facility during the Contract term, but any proceeds received from these items should be returned to the ratepayers. (Thompson)

Staff Analysis: The Bay County Resource Recovery Facility uses municipal solid waste (MSW) as its primary fuel. MSW is considered a renewable fuel and the facility is a renewable generating facility as defined by Rule 25-17.210, Florida Administrative Code (F.A.C.). Gulf has contracted to buy all of the energy from the facility at fixed prices for six years beginning on July 23, 2017. An interconnection agreement between Gulf and Bay County has been in place since 1987. Gulf maintains the interconnection between Gulf's system and the facility. Bay County pays Gulf for the cost of maintenance of the interconnection site. These costs, therefore, do not impact this analysis.

The Contract is substantially similar to two prior contracts between Gulf and Bay County, which were previously approved by the Commission. Changes since the last approved contract include a revision of the commencement date of the Contract, adding clarifying terminology, and deleting redundant language. For example, section two of the Contract clarifies the meaning of the terms "Approve" and "Approval" to reflect a Final Order from this Commission and deletes redundant language with the same meaning.

As required by Rule 25-17.0832(3), F.A.C., review of a negotiated contract requires staff to consider the following: the need for power, the cost-effectiveness of the contract, security provisions for payments, and performance guarantees. Each of these factors is evaluated below.

Need for Power

After serving internal loads, the facility will provide net generation of approximately 13.65 MW to Gulf. It should be noted that this capacity will not contribute to Gulf's reserve margin as it is a non-firm contract. However, Section 366.91, F.S., states that it is in the public interest to promote the development of renewable energy resources. Doing so helps diversify fuel types in order to reduce Florida's growing dependency on natural gas for electric production. Rule 25-17.001(5)(d), F.A.C., encourages electric utilities to:

. . . [a]ggressively integrate nontraditional sources of power generation including cogenerators with high thermal efficiency and small power producers using renewable fuels into the various utility service areas near utility load centers to the extent cost effective and reliable.

Staff recommends the characteristics of the energy associated with this Contract are desirable and encourage the use of renewable fuels in Florida.

Cost-Effectiveness

Gulf and Bay County have agreed upon an energy rate fixed at \$30.59 per megawatt hour (MWh) for the entire six year term of the Contract. No capacity payments are involved with the Contract, so the price paid is only for the actual energy provided by the facility. Staff compared the Contract's rate with the cost of generating or purchasing the same amount of energy from an existing source, known as the as-available energy cost, provided by Gulf. As Table 1 below shows, the Contract rate makes purchasing energy from the facility more cost-effective overall than Gulf generating the same amount from existing resources. Although Gulf estimates a negative difference in 2017 and 2018, the total savings over the six year period of the Contract are predicted to result in a NPV sum of \$246,234.

Table 1
Avoided Cost vs PPA Cost

(A)	(B) Avoided Cost (\$/MWh)	(C) MWh	(D) Total Avoided Cost (B x C)	(E) PPA Revenue (C x \$30.59)	(F) Margin (D - E)
2017	\$28.73	35,000	\$1,005,518	\$1,070,650	(\$65,132)
2018	\$28.27	60,000	\$1,696,373	\$1,835,400	(\$139,027)
2019	\$30.75	60,000	\$1,844,899	\$1,835,400	\$9,499
2020	\$32.03	60,000	\$1,921,820	\$1,835,400	\$86,420
2021	\$33.35	60,000	\$2,000,892	\$1,835,400	\$165,492
2022	\$34.24	60,000	\$2,054,527	\$1,835,400	\$219,127
2023	\$36.26	25,000	\$906,578	\$764,750	\$141,828
	Total	360,000	\$11,430,606	\$11,012,400	\$418,206
	NPV	279,453	\$8,794,691	\$8,548,457	\$246,234

Source: Gulf's Response to Staff's First Data Request³

The Contract requires that Bay County maximize its generation and that Gulf is the exclusive purchaser for all of the facility's net generation. In addition to the energy provided by the facility, the Contract states that RECs associated with the electric energy produced from the facility will belong to Gulf, consistent with the prior contract. In response to Staff's First Data Request, number 2, Gulf stated that it did not assign any monetary value to the RECs in its

³Document No. 07948-2017, filed September 28, 2017, in Docket No. 20170169-EI, p. 27.

Date: October 26, 2017

economic evaluation of the PPA.⁴ Staff would note that, as part of the Contract, Gulf will receive any renewable attributes or RECs resulting from electrical energy generated at the Bay County facility during the Contract term and recommends that any proceeds received as a result of selling RECs should go to the benefit of the ratepayers.

Security for Payments

No capacity payments are associated with this Contract; provisions are only for Bay County's delivery of energy to Gulf. The security of this energy-only Contract is that payments from Gulf are directly proportional to the amount of energy provided. If no energy is provided, no payment is due.

Performance Guarantees

As noted above, the Contract states that Bay County must maximize its generation. Consistent with the prior contract, the Contract lists conditions which must be met to avoid default or termination, such as using good engineering and utility practices. Bay County is also obligated to maintain a specified reactive power flow, annually provide Gulf with a schedule of planned generation outages or reductions, and promptly notify Gulf of any forced or unplanned outages for longer than three days. If these obligations are not met, Gulf would notify Bay County of the default condition, which Bay County would be allowed 60 days to remedy. If not remedied after 60 days, Gulf may terminate the Contract without further liability to either party. Staff recommends the terms of the Contract are sufficient to protect Gulf's ratepayers if Bay County fails to deliver the net generation of energy from its facility.

Conclusion

Payments for energy are expected to produce NPV savings of approximately \$250,000 over the term of the Contract. Also, the Contract is substantially similar to the contracts between Gulf and Bay County previously approved by the Commission. Therefore, staff recommends that the Commission approve Gulf's petition for approval of a negotiated renewable energy PPA with Bay County, Florida. Staff further recommends that Gulf should be permitted to petition for recovery of costs associated with the Contract through the Fuel and Purchased Power Recovery Clause. As part of the Contract, Gulf will receive any renewable attributes or RECs resulting from electrical energy generated at the Bay County facility during the Contract term, but any proceeds received from these items should be returned to the ratepayers.

⁴Document No. 07948-2017, filed September 28, 2017, in Docket No. 20170169-EI, p. 4.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Order, a Consummating Order should be issued and the docket should be closed administratively. (DuVal)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Order, a Consummating Order should be issued and the docket should be closed administratively.

Item 7

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Hill, Graves, King) *Handwritten initials: m, BGS, CMB, ALM, TB*
Division of Accounting and Finance (Fletcher, Frank, Norris)
Division of Economics (Hudson, Johnson) *Handwritten initials: P, D, G, J, F*
Office of the General Counsel (DuVal, Crawford) *Handwritten initials: MD, JC*

RE: Docket No. 20160065-WU – Application for increase in water rates in Charlotte County by Bocilla Utilities, Inc.

AGENDA: 11/07/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Bocilla Utilities, Inc. (Bocilla or Utility) is a Class B utility providing water service to approximately 400 water customers in Charlotte County. Effective February 12, 2013, Bocilla was granted water Certificate No. 662-W.¹ Bocilla's current rates were established by the Florida Public Service Commission (Commission or PSC) in May of 2017.² At that time, the Commission found that Bocilla's overall quality of service was unsatisfactory. The Commission

¹Order No. PSC-13-0228-PAA-WU, issued May 29, 2013, in Docket No. 130067-WU, *In re: Application for grandfather certificate to operate water utility in Charlotte County by Bocilla Utilities, Inc.*

²Order No. PSC-17-0209-PAA-WU, issued May 30, 2017, in Docket No. 20160065-WU, *In re: Application for increase in water rates in Charlotte County by Bocilla Utilities, Inc.*

ordered a 50 basis point reduction to the Utility's return on equity (ROE). The reduction would be effective until the Utility returned to the Commission and demonstrated that specific improvements in customer service had been made.

On August 4, 2017, Bocilla filed a letter and documentation demonstrating that it had made the Commission's ordered improvements. The Utility requested that the matter be brought before the Commission to consider restoring the 50 basis point reduction to its ROE. Staff found several of the attached documents illegible, and on August 8, 2017, Bocilla filed legible copies of these documents. On August 24, 2017, Bocilla filed an index application which will increase rates on November 1, 2017. Therefore, the rate impact of removing the 50 basis point reduction to ROE would be applied to the indexed rates. The Commission has jurisdiction pursuant to Section 367.081, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Utility's quality of service be considered satisfactory and should its request to remove the 50 basis point reduction to its ROE be granted?

Recommendation: Yes. The 50 basis point reduction to Bocilla's ROE should be removed and the Utility's quality of service should be considered satisfactory at this time. Bocilla's rates, which would include the November 1, 2017 index, should be increased by 0.16 percent as shown on Schedule No. 1. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.). In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Hill, Frank, Johnson)

Staff Analysis: At the May 4, 2017 Agenda Conference, after considering written and oral comments by customers and the Office of Public Counsel, the Commission found Bocilla's quality of service to be unsatisfactory and imposed a 50 basis point reduction to the Utility's ROE based on the customer complaints regarding water quality and customer service. Order No. PSC-17-0209-PAA-WU, issued May 30, 2017, states that the 50 basis point reduction shall be effective until the Utility demonstrates that: (1) the Utility meets the Department of Environmental Protection's (DEP) secondary water quality standards as evidenced by results gathered from the six current testing points specified in that order; (2) the Utility has posted its office hours on its customers' bills and the side of its office building; (3) the Utility has notified its customers that complaints regarding service may be made to the Commission's Office of Consumer Assistance and Outreach at the following toll-free number: 1(800) 342-3552; and (4) the Utility is monitoring its voicemail and is ensuring that it is meeting the standards for tracking complaints in accordance with Chapter 25-30, F.A.C.

On August 4, 2017, Bocilla filed a letter requesting removal of the 50 basis point reduction. The Utility's filing also included: (1) the results of secondary water quality tests performed on June 28, 2017, demonstrating that the Utility is passing secondary standards; (2) a sample customer bill showing its office hours along with a statement that it posted these hours on the side of its office building; (3) a copy of the notification it sent to its customers in accordance with the specifications made in the order; and (4) the customer complaint logs for June 1, 2017, through August 4, 2017, as well as the voicemail message customers hear when calling the Utility.

In addition to the documentation provided by the Utility, staff requested photographs showing that the office hours were clearly posted on the outside of its office building, which Bocilla provided on August 11, 2017. Staff also confirmed that the office was staffed and responding to phone calls at two of the published available times, and that outside of these hours customers would hear the appropriate voicemail message.

It appears that the Utility has complied with Order No. PSC-17-0209-PAA-WU, and therefore staff recommends that the 50 basis point reduction to Bocilla's ROE should be removed. This

results in an increase to Bocilla's annual revenue requirement of \$821 (\$497,726 - \$496,905). On August 24, 2017, the Utility filed an index application, which will increase rates effective November 1, 2017. Therefore, staff recommends a 0.16 percent increase be applied to the indexed rates, as shown on Schedule No. 1. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Last, staff recommends that a commensurate adjustment should be made to Bocilla's quality of service rating. Pursuant to Order No. PSC-17-0209-PAA-WU, the Commission determined that Bocilla's quality of service was unsatisfactory. Based on the corrective actions taken by the Utility, the quality of service should be considered satisfactory at this time.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed administratively. (DuVal)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed administratively.

Bocilla Utilities, Inc. Monthly Water Rates		Schedule No. 1 Docket No. 20160065-WU	
	Current Rates	Index Rates Effective 11/1/2017	Staff Recommended Rates
<u>Residential and General Service</u>			
Base Facility Charge by Meter Size			
5/8"X 3/4"	\$56.34	\$56.83	\$56.92
3/4"	\$84.51	\$85.25	\$85.38
1"	\$140.85	\$142.08	\$142.30
1-1/2"	\$281.70	\$284.15	\$284.60
2"	\$450.72	\$454.64	\$455.36
3"	\$901.44	\$909.28	\$910.72
4"	\$1,408.50	\$1,420.75	\$1,423.00
6"	\$2,817.00	\$2,841.50	\$2,846.00
8"	\$4,507.20	\$4,546.40	\$4,553.60
Charge per 1,000 gallons - Residential			
0 - 3,000 gallons	\$6.35	\$6.41	\$6.42
3,001 - 12,000 gallons	\$7.94	\$8.01	\$8.02
Over 12,000 gallons	\$15.87	\$16.01	\$16.04
Charge per 1,000 gallons - General Service			
	\$9.27	\$9.35	\$9.36
<u>Private Fire Protection Service</u>			
5/8"X 3/4"	\$4.70	\$4.74	\$4.74
3/4"	\$7.04	\$7.10	\$7.12
1"	\$11.74	\$11.84	\$11.86
1-1/2"	\$23.48	\$23.68	\$23.72
2"	\$37.56	\$37.89	\$37.95
3"	\$75.12	\$75.77	\$75.89
4"	\$117.38	\$118.40	\$118.58
6"	\$234.75	\$236.79	\$237.17
8"	\$375.60	\$378.87	\$379.47
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$75.39	\$76.06	\$76.18
6,000 Gallons	\$99.21	\$100.09	\$100.24
12,000 Gallons	\$146.85	\$148.15	\$148.36

Item 8

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (P. Buys, Knoblauch)
Division of Accounting and Finance (Andrews, Fletcher, Norris)
Division of Economics (Bruce)
Office of the General Counsel (Taylor)

Handwritten notes and signatures:
✓ EK 003
TR
CR
BS
ALM
JAD
WDT
JSC

RE: Docket No. 20160248-WS – Application for original certificates to provide water and wastewater service in Polk County by Deer Creek RV Golf & Country Club, Inc.

AGENDA: 11/07/17 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

CRITICAL DATES: 11/07/17 (Statutory Deadline for original certificate pursuant to Section 367.031, Florida Statutes, waived by applicant until this date)

SPECIAL INSTRUCTIONS: None

Case Background

Deer Creek RV Golf & Country Club, Inc. (Deer Creek or Utility) is located in Polk County. Based on its application, Deer Creek provides water and wastewater services to approximately 862 residential customers and 22 general service customers.

Deer Creek is part of a Development of Regional Impact (DRI), which was established in the early 1980s.¹ Under the DRI, several contiguous mobile home communities and commercial properties were developed. The ownership of the developments has changed hands several times and several different agreements were made as to how utility service would be managed and billed. On December 5, 2013, Deer Creek acquired the recreational facilities, amenities, and other property exclusively serving several of the communities.

Deer Creek does not operate either a water treatment facility or a wastewater treatment facility; it purchases those services from Polk County. Deer Creek does maintain the water and wastewater lines that serve the Deer Creek communities. Deer Creek's billing service allocates the bill received from Polk County for water and wastewater service back to the residents within the Community based on the meter readings at each location.

On December 23, 2016, Deer Creek filed an application for original water and wastewater certificates. Deer Creek is seeking to be certificated because it is operating at a loss and cannot continue to function under one of the statutory exemptions listed under Section 367.022, Florida Statutes (F.S.). Deer Creek's utility plant consists of a water distribution system, water meters, and a wastewater collection system with a master lift station. Effluent from the lift station is transferred to Polk County for treatment and disposal. Water is provided to Deer Creek by Polk County via a single master meter.

Pursuant to Section 367.031, F.S., the Florida Public Service Commission (Commission) shall grant or deny an application for a certificate of authorization within 90 days after the official filing date of the completed application. The application was deemed complete on March 7, 2017, which is considered the official filing date. Deer Creek has waived the 90-day statutory deadline through November 7, 2017.

This recommendation addresses the application for original water and wastewater certificates and the appropriate rates and charges for the Utility. The Commission has jurisdiction pursuant to Sections 367.031 and 367.045, F.S.

¹Pursuant to Section 380.06(1), Florida Statutes, a Development of Regional Impact is defined as "any development which, because of its character, magnitude or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one County."

Discussion of Issues

Issue 1: Should the application for water and wastewater certificates by Deer Creek RV Golf & Country Club, Inc. be approved?

Recommendation: Yes. Deer Creek should be granted Certificate Nos. 670-W and 572-S to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Deer Creek's water and wastewater certificates and it should be retained by the Utility. Staff recommends that the existing rates, as shown on Schedule No. 1, remain in effect until a change is authorized by this Commission in a subsequent proceeding. (P. Buys, Bruce, Andrews)

Staff Analysis: On December 23, 2016, Deer Creek filed its application for original water and wastewater certificates in Polk County. Upon review, staff determined the original filing was deficient and sent several data requests to the Utility seeking additional information. Deer Creek corrected the deficiencies on March 7, 2017, which is considered the official filing date for the application. The Utility's application is in compliance with the governing statutes, Sections 367.031 and 367.045, F.S.

Notice

On March 31, 2017, Deer Creek filed proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code (F.A.C.). Subsequent to the filing of the notice, the Commission received three letters expressing concern regarding Deer Creek's ability to manage a utility. These concerns included complaints received by Deer Creek, unaccounted for water and leaks in the system, and communication with the Utility. The letters did not include a return address, email address, or any means to contact the customer; therefore, staff was not able to seek clarification on whether or not the customers intended to pursue an objection and request a formal hearing. As of October 18, 2017, no other person or entity objected to the application and the time for filing such objections has expired.

Land Ownership and Service Territory

Deer Creek provided adequate service territory system maps and a territory description as required by Rule 25-30.034, F.A.C. The legal description of the service territory is appended to this recommendation, as Attachment A. Deer Creek did not submit a recorded executed warranty deed as Deer Creek's utility plant consists of a water distribution system, water meters, and a wastewater collection system with a master lift station. All treatment services are purchased from Polk County.

Financial and Technical Ability

Pursuant to Rule 25-30.034(1)(i), F.A.C., the Utility provided statements describing its financial and technical ability to provide service. Staff has reviewed the financial statements of Deer Creek and believes the current owner has documented adequate resources to support the Utility's water and wastewater operations.

Regarding technical ability, as stated above, Deer Creek does not operate either a water treatment facility or a wastewater treatment facility; it purchases the treatment services from Polk County. As of October 17, 2017, Deer Creek has no compliance issues on file with the Florida Department of Environmental Protection and is current with its monitoring requirements. Meter reading and billing services are provided by NES and White Accounting Service, LLC. Both are professional contractors engaged in the business of billing services.

The current owner has been operating the system since 2013. Maintenance of the distribution and collection system is provided by the Deer Creek maintenance staff and supplemented, as needed, by qualified contractors with expertise in water and wastewater systems and lift-station service and maintenance. Administrative and oversight duties are provided by the Board and Officers of Deer Creek.

Rates

The Utility has been billing its water and wastewater customers base facility charges (BFC) based on a proration of the Polk County water and wastewater BFCs for a 12" master meter and the County's gallonage charges. While the County's rates are per 1,000 gallons, the Utility bills based on 100 gallons.

The residential customers are individually metered. However, the Utility does not bill the clubhouses or pools. Staff advised the Utility that all customers receiving water or wastewater service should be billed for those services.

In its application, the Utility requested rates that included the additional costs for the County franchise fee, the Commission's regulatory assessment fees (RAFs), and a 10 percent allowance for unaccounted for water. Staff advised the Utility that the County franchise fee should be shown as a separate line item on the customer's bill pursuant to Rule 25-30.335(6), F.A.C. Because the Utility's application was filed pursuant to Rule 25-30.034, F.A.C., and customers have not been noticed of a proposed change in rates, staff recommends that the rates currently being charged, excluding the 10 percent allowance for unaccounted for water and RAFs, which are not included in the current rates, should be approved by the Commission. Following the Commission's vote to approve the original certificate, the Utility may apply for a pass through, pursuant to a Section 367.081(4), F.S., to recover the cost of RAFs and the Polk County rate increase that became effective on October 1, 2017. The Utility has not noticed its customers or billed the October 1 County rate increase. Additional cost recovery, such as costs associated with unaccounted for water, may be requested in a staff assisted rate case. The Utility does not collect and has not requested miscellaneous service charges or service availability charges. Staff recommends that the existing rates, as shown on Schedule No. 1, remain in effect until a change is authorized by this Commission in a subsequent proceeding.

Conclusion

Based on the information above, staff recommends that Deer Creek be granted Certificate Nos. 670-W and 572-S to serve the territory described in Attachment A, effective the date of the Commission's vote. The resultant order should serve as Deer Creek's water and wastewater certificates and it should be retained by the Utility. Staff also recommends that the existing rates, as shown on Schedule No. 1, remain in effect until a change is authorized by this Commission in a subsequent proceeding.

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, no further action is required by the Commission and the docket should be closed upon the issuance of the final order. (Taylor)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, no further action is required by the Commission and the docket should be closed upon the issuance of the final order.

**Deer Creek RV Golf & Country Club, Inc.
Description of Water and Wastewater Service Territory**

Polk County

Commence at the Southeast corner of the Southwest 1/4 of Section 17, Township 26 South, Range 27 East, Polk County, Florida and run thence N 0°13'28" E, along the East boundary of said Southwest 1/4, a distance of 525.01 feet to the Point of Beginning; continue N 0°13'28" E, 2120.74 feet to the Northeast corner of said Southwest 1/4; run thence S 89°54'39" W, along the North boundary of the Northeast 1/4 of the Southwest 1/4 a distance of 1325.49 feet to the Southeast corner of the Southwest 1/4 of the Northwest 1/4 of said section 17, run thence N 0°04'18" E, along the East boundary of said Southwest 1/4 of the Northwest 1/4, a distance of 725.00 feet; run thence N 76°22'33" W, 943.27 feet; run thence N 89°55'42" W, 45.00 feet to a point on a curve having a radius of 610.00 feet, a central angle of 91°04'15" and whose chord bears S 45°36'26" W, run thence Southwesterly along said curve an arc distance of 969.56 feet; run thence S 53°41'40" W, 566.40 feet; run thence S 36°18'20" E, 20.00 feet; run thence S 62°06'42" W, 58.12 feet; run thence S 07°25'05" W, 119.44 feet to a point on a curve to the left having a radius of 248.82 feet, a central angle of 35°18'22" and whose chord bears S 10°14'07" W, run thence Southwesterly along said curve an arc distance of 153.32 feet; run thence S 27°53'18" E, 1000.00 feet to a point on a curve to the left having a radius of 267.19 feet, a central angle of 33°27'28" and whose chord bears S 44°37'02" E, run thence Southeasterly along said curve an arc distance of 156.03 feet to a point on a reverse curve to the left having a radius of 405.94 feet, a central angle of 27°27'35" and whose chord bears S 47°36'58" E, run thence Southeasterly along said curve an arc distance of 914.55 feet; run thence S 33°53'10" E, 20.00 feet to a point on a curve to the left having a radius of 30.00 feet, a central angle of 90°00'00" and whose chord bears S 78°53'10" E, run thence Southeasterly along said curve an arc distance of 47.12 feet; run thence N 56°06'50" E, 173.05 feet to a point on a curve to the left having a radius of 1801.37 feet, a central angle of 08°50'08" and whose chord bears N 51°26'15" E, run thence Northeasterly along said curve an arc distance of 227.78 feet, run thence N 47°01'11" E, 113.93 feet to a point on a curve to the left having a radius of 1435.17 feet, a central angle of 03°25'15" and whose chord bears N 48°43'49" E, run thence Northeasterly along said curve an arc distance of 85.69 feet; run thence N 50°26'26" E, 40.00 feet; run thence S 39°33'34" E, 80.00 feet; run thence N 50°26'26" E, 62.98 feet to a point on a curve to the right having a radius of 919.27 feet, a central angle of 13°17'28" and whose chord bears N 57°05'10" E, run thence Northeasterly along said curve an arc distance of 213.24 feet; run thence S 26°07'38" E, 40.00 feet to a point on a non-tangent curve to the left having a radius of 431.38 feet, a central angle of 01°59'28" and whose chord bears S 62°43'17" W, run thence Southwesterly along said curve an arc distance of 14.99 feet; run thence S 26°07'43" E, 177.16 feet to a point on a curve to the right having a radius of 546.84 feet, a central angle of 23°48'35" and whose chord bears S 11°48'45" E, run thence Southerly along said curve an arc distance of 227.24 feet; run thence S 00°09'14" E, 447.65 feet to a point on a curve to the left having a radius of 869.08 feet, a central angle of 11°32'54" and whose chord bears S 05°55'41" E, run thence Southerly along said curve an arc distance of 175.17 feet; run thence S 11°42'08" E, 333.23 feet; run thence S 89°50'46" W, 554.14 feet; run thence N 12°26'07" W, 867.28 feet to a point on a non-tangent curve to the right having a radius of 1451.41 feet, a central angle of 00°40'47" and whose chord bears S 48°08'46"

W, run thence Southwesterly along said curve an arc distance of 17.22 feet; run thence N 12°26'07" W, 95.66 feet to a point on a non-tangent curve to the right having a radius of 1881.37 feet, a central angle of 02°36'38" and whose chord bears S 54°33'00" W, run thence Southwesterly along said curve an arc distance of 85.72 feet; run thence S 56°06'50" W, 172.92 feet; run thence S 33°53'10" E, 10.00 feet; run thence S 56°06'50" W, 105.65 feet to a point on a curve to the right having a radius of 905.01 feet, a central angle of 06°41'37" and whose chord bears S 59°27'38" W, run thence Southwesterly along said curve an arc distance of 105.73 feet; run thence S 62°48'27" W, 239.88 feet the Easterly right-of-way line of U.S. Highway 27 and a point on a non-tangent curve to the right having a radius of 4437.18 feet, a central angle of 02°32'33" and whose chord bears S 35°16'37" E, run thence Southeasterly along said curve an arc distance of 196.70 feet; run thence along said right-of-way line the following courses and distances; thence S 65°59'34" W, 15.00 feet to a point on a curve having a radius of 4422.18 feet, a central angle of 06°39'57" and whose chord bears S 20°40'27" E, run thence Southeasterly an arc distance of 514.48 feet; thence leaving said Easterly right-of-way line U.S. Highway 27, run N 89°50'47" E, 239.76 feet; run thence S 00°05'09" E, 208.71 feet to a point lying 25.00 feet North of the South boundary of said Section 17; run thence N 89°50'47" E, parallel to said South boundary 2013.87 feet; run thence N 00°09'14" W, 40.00 feet; run thence N 89°50'47" E, 50.00 feet; run thence N 00°09'14" W, 460.00 feet; run thence N 89°50'47" E, 400.95 feet to the Point of Beginning.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

Deer Creek RV Golf & Country Club, Inc.
pursuant to
Certificate Number 670-W

to provide water service in Polk County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	20160248-WS	Original Certificate

* Order Number and date to be provided at time of issuance.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes

Deer Creek RV Golf & Country Club, Inc.
pursuant to
Certificate Number 572-S

to provide wastewater service in Polk County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rule, regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	20160248-WS	Original Certificate

* Order Number and date to be provided at time of issuance.

Deer Creek RV Golf & Country Club, Inc.

Water Service

Residential and General Service

Base Facility Charge – All Meter Sizes	\$2.30
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Charge Per 1,000 gallons

0-2,400 gallons	\$2.75
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2,401-4,700 gallons	\$5.16
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4,701-9,500 gallons	\$10.03
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Over 9,500 gallons	\$17.35
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Wastewater Service

Residential Service and General Service

Base Facility Charge - All Meter Sizes	\$8.57
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Charge Per 1,000 gallons	\$6.48
--------------------------	--------

Item 9

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Wu) *Wu*
Office of the General Counsel (Taylor) *WTJ*

RE: Docket No. 20170182-EI – Petition for approval of depreciation rates for various accounts, by Tampa Electric Company.

AGENDA: 11/07/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

RECEIVED-PPSC
2017 OCT 26 AM 9:13
COMMISSION
CLERK

Case Background

Pursuant to Rule 25-6.0436(6) and 25-6.135, Florida Administrative Code (F.A.C.), Tampa Electric Company (TECO or company) submitted its 2016 Annual Depreciation Status Report on April 28, 2017.¹ During staff's review of this report, it became clear that the company used the Florida Public Service Commission (Commission) approved remaining life depreciation rates (depreciation rates), under seven subaccounts in Account 345 – Accessory Electric Equipment, as the depreciation rates for seven subaccounts in Account 346 – Miscellaneous Power Plant Equipment, and inadvertently failed to seek approval from the Commission.²

¹ Document No. 07653-2017, "Memo dated 9/14/17 to CLK/Stauffer with attached letter dated 4/28/17 with annual status report for docket file."

² Document No. 07652-2017, "Memo dated 9/14/17 to CLK/Stauffer with attached letter dated 8/25/17 with revised response to staff's first data request."

On August 28, 2017, TECO filed a petition to request the Commission to approve the depreciation rates for the aforementioned seven subaccounts 346.xx – Miscellaneous Power Plant Equipment, to rectify its inadvertence.

Pursuant to Rule 25-6.0436(3)(a), F.A.C., electric utilities are required to maintain depreciation rates and accumulated depreciation reserve in accounts or subaccounts as prescribed in Rule 25-6.014(1), F.A.C. Rule 25-6.0436(3)(b), F.A.C., provides that “[u]pon establishing a new account or subaccount classification, each utility shall request Commission approval of a depreciation rate for the new plant category.” Staff is not aware of any public comments or concerns on this matter. The Commission has jurisdiction in this matter pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve TECO's petitioned depreciation rates for seven subaccounts 346.xx – Miscellaneous Power Plant Equipment?

Recommendation: Yes. Staff recommends that the annual depreciation rates applicable to TECO's seven subaccounts 346.xx – Miscellaneous Power Plant Equipment, as detailed in Table 1-1 in Staff Analysis, be approved. (Wu)

Staff Analysis: TECO is seeking Commission approval of depreciation rates for seven depreciation subaccounts as detailed in Table 1-1 below:

Table 1-1
TECO's Petitioned Depreciation Rates

	Depreciation Account	Depreciation Rate
1	346.44 – Miscellaneous Power Plant Equipment of Big Bend Combustion Turbine No. 4	4.0 percent
2	346.84 – Miscellaneous Power Plant Equipment of Polk Unit No. 4	3.9 percent
3	346.85 – Miscellaneous Power Plant Equipment of Polk Unit No. 5	3.9 percent
4	346.33 – Miscellaneous Power Plant Equipment of Bayside Combustion Turbine No. 3	4.0 percent
5	346.34 – Miscellaneous Power Plant Equipment of Bayside Combustion Turbine No. 4	4.0 percent
6	346.35 – Miscellaneous Power Plant Equipment of Bayside Combustion Turbine No. 5	4.0 percent
7	346.36 – Miscellaneous Power Plant Equipment of Bayside Combustion Turbine No. 6	4.0 percent

Source: TECO's petition filed in this docket, page 2.

TECO normally reviews changes in plants or utility experience that may require a revision of depreciation rates, amortization, or capital recovery schedules once every four years in compliance with Rule 25-6.0436, F.A.C. At the conclusion of TECO's 2011 Depreciation Study,³ the Commission issued an order to approve a depreciation rate of zero percent for each of the subaccounts 346.xx listed in Table 1-1.⁴ At that time, there were no forecasted plant assets in these subaccounts.⁵ Since the time of the 2011 Depreciation Study, assets have been added to the 346.xx subaccounts. TECO claimed that "at the time these assets were placed-in-service, it was Tampa Electric's practice to apply an approved starter rate for depreciation. During

³ It is the company's latest depreciation study that is approved by the Commission.

⁴ Order No. PSC-12-0175-PAA-EI, issued April 3, 2012, in Docket No. 110131-EI, *In re: Petition for approval of 2011 depreciation study and annual dismantlement accrual amounts by Tampa Electric Company*, pp. 19 - 21.

⁵ Id. pp. 7 - 9, and Document No. 07652-2017 "Memo dated 9/14/17 to CLK/Stauffer with attached letter dated 8/25/17 with revised response to staff's first data request," pp. 3 - 5.

implementation of the approved rates from the 2011 Depreciation Study, the 346 Accounts were updated to match the approved depreciation rates for Account 345 – Accessory Electric Equipment.”⁶ Consequently, TECO has been utilizing the depreciation rates listed in Table 1-1 to report and depreciate the assets in each corresponding subaccount. In reviewing TECO’s 2016 Annual Depreciation Status Report, staff inquired about the appropriateness of the depreciation rates the company used, and TECO realized that it had been improperly utilizing the approved depreciation rates, under subaccount 345.xx – Accessory Electric Equipment, as the depreciation rates for the assets in subaccount 346.xx – Miscellaneous Power Plant Equipment without seeking approval from the Commission.

Rule 25-6.0436(2)(a), F.A.C., states that “no utility shall change any existing depreciation rate or initiate any new depreciation rate without prior Commission approval.” TECO understands that the depreciation rates it reported and applied to the subaccounts 346.xx are not Commission approved rates;⁷ hence, it filed the instant petition to seek approval to use the depreciation rates listed in Table 1-1 as interim rates for the affected subaccounts until its next depreciation study is approved by the Commission.⁸ TECO indicated that the depreciation rates are reasonable compared to depreciation rates applied to other similar asset accounts. The company further confirmed that during its next depreciation study, the 346 Accounts will be properly examined and rated accordingly and the company plans to revise the interim depreciation rates approved in this docket at that time. Currently, TECO is between depreciation study filings. The company is excused from compliance with the every four-year filing requirement of Rule 25-6.0436, F.A.C., until no more than one year nor less than sixty days before the filing of its next general rate proceeding in accordance with Order No. PSC-13-0443-FOF-EI.⁹

To assess the potential impairment resulting from TECO’s improper utilization of depreciation rates, staff requested the company to identify the cumulative impacts to the company’s customer bills, if any, for the period 2011 through 2016. The company responded:

Customers’ bills have not been impacted by Tampa Electric’s application of depreciation rates to the assets in accounts 346.44, 346.84, 346.85, 346.33, 346.34, 346.35, and 346.36 (“346 Accounts”). During the period of time that Tampa Electric has been applying depreciation rates in the 346 Accounts, there was only one Petition for Rate Increase (“Petition”) filed by Tampa Electric on February 4, 2013, in Docket No. 130040-EI. That Petition was resolved by a

⁶ Document No. 07652-2017 “Memo dated 9/14/17 to CLK/Stauffer with attached letter dated 8/25/17 with revised response to staff’s first data request,” pp. 2 – 3.

⁷ Document No. 07652-2017 “Memo dated 9/14/17 to CLK/Stauffer with attached letter dated 8/25/17 with revised response to staff’s first data request,” p. 3.

⁸ On September 27, 2017, TECO filed a petition for approval of “2017 Amended and Restated Stipulation and Settlement Agreement” (2017 Agreement) in Docket No. 20170210-EI. The 2017 Agreement indicates that “the depreciation and amortization accrual rates approved by the FPSC and currently in effect as of the Effective Date of this 2017 Agreement shall remain in effect during the Term or the company’s next depreciation study, whichever is later.” (Paragraph 8 (a)) TECO has confirmed, in its response to Staff’s Second Data Request, in Docket No. 20170210-EI, that the depreciation rates resulting from the Commission’s approval in this docket (Docket No. 20170182-EI), extending through the Term of the 2017 Agreement, is acceptable to the Parties of the 2017 Agreement, the language of Paragraph 8(a) of the 2017 Agreement notwithstanding.

⁹ Order No. PSC-13-0443-FOF-EI, issued September 30, 2013, in Docket No. 130040-EI, *In re: Petition for rate increase by Tampa Electric Company*.

Stipulation and Settlement Agreement (“Agreement”), approved by the Public Service Commission in Order No. PSC-13-0443-FOF-EI, issued September 30, 2013. The provisions of the Agreement included a negotiated rate increase and return on equity that were less than Tampa Electric requested in its Petition. Since the Petition resulted in a negotiated base rate settlement, there was no correlation between the impact of the depreciation rates applied to the 346 Accounts and the Tampa Electric customer bills from 2011 through 2016.¹⁰

The impacts to TECO’s depreciation reserve accounts were also gauged by the company in responding to staff’s inquiries. Up to December 31, 2016, the total amount of depreciation reserve for these seven subaccounts is \$111,830.¹¹ Staff notes that any potential reserve imbalance resulting from this will be automatically resolved through the implementation of new remaining life depreciation rates, and/or reserve transfer if necessary, as prescribed by the Commission at the conclusion of its review of TECO’s next depreciation study.

Staff believes that it is reasonable for the company to continue applying the depreciation rates listed in Table 1-1 to each corresponding 346.xx subaccount, on an interim basis, until such time as depreciation rates are examined in detail in the company’s next depreciation study and approved by the Commission. No costs or harm has occurred to the general body of ratepayers as a result of TECO’s accounting error addressed in this specific case. However, staff believes that TECO should be advised to take care in the future to not apply an approved depreciation rate to inapplicable accounts, and to seek approval for all proposed depreciation rates for new plant assets prior to their application, in compliance with Rule 25-6.0436(2)(a), F.A.C.

Conclusion

Staff recommends that TECO’s proposed depreciation rates for subaccounts 346.xx, as detailed in Table 1-1, be approved so that the company’s inadvertent mistake may be rectified.

¹⁰ TECO’s response to Staff’s First Data Request, No. 1.

¹¹ TECO’s response to Staff’s First Data Request, No. 3.

Issue 2: What should be the effective date if TECO's petitioned depreciation rates discussed in Issue 1 are approved?

Recommendation: Staff recommends that any Commission newly-approved depreciation rates applicable to the seven subaccounts 346.xx – Miscellaneous Power Plant Equipment, become effective upon the Commission's issuance of a Consummating Order in this docket. (Wu)

Staff Analysis: Depreciation is the recovery of invested capital representing equipment that is providing service to the public. This recovery is designed to take place over the related period of service to the public, which begins with the equipment's in-service date. In its petition, TECO requests the Commission to approve an effective date of its petitioned depreciation rates as of the date of the Commission order disposing of the instant petition. The affected plant assets associated with the petitioned depreciation rates have already been placed into service. Since the objective of this petition is to rectify the company's inadvertence of using Commission-approved depreciation rates, under similar plant asset subaccounts 345.xx, as subaccounts 346.xx for booking the affected plant assets, staff believes that TECO's requested effective date is appropriate. Therefore, staff recommends that if the Commission authorizes the company's petitioned depreciation rates, the effective date of the rates should be upon the Commission's issuance of a Consummating Order in this docket.

Issue 3: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Taylor)

Staff Analysis: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.

Item 10

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Morgan, Coston, Guffey) *Canz* *WSE* *EL7* *38* *W27*
Office of the General Counsel (Trierweiler) *JKG* *90H*

RE: Docket No. 20170209-EI – Petition for approval of modifications to business incentive rate riders, by Gulf Power Company.

AGENDA: 11/07/17 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 60 Day Effective Date: 11/25/17

SPECIAL INSTRUCTIONS: None

RECEIVED - FPSC
2017 OCT 26 AM 9:13
COMMISSION
CLERK

Case Background

On September 25, 2017, Gulf Power Company (Gulf or company) filed a petition requesting modifications to its Extra Large Business Incentive Rate Rider (XLBIR), Large Business Incentive Rate Rider (LBIR), Medium Business Incentive Rate Rider (MBIR), and Small Business Incentive Rate Rider (SBIR), known collectively as the riders. The riders collectively share a 100 megawatt (MW) subscription limitation. Gulf is requesting in this petition to remove this limitation. The company's riders were approved by the Commission as a three-year pilot program (January 1, 2014 through December 31, 2016) pursuant to the Stipulation and Settlement Agreement in Gulf's 2013 base rate proceeding.¹ On June 9, 2016, the Commission approved a limited extension of the riders, changing the termination date from December 31,

¹ Order No. PSC-13-0670-S-EI, issued December 19, 2013, in Docket No. 130140-EI, *In re: Petition for rate increase by Gulf Power Company*.

2016 to December 31, 2017.² On May 16, 2017, as part of the Stipulation and Settlement Agreement in Gulf's 2016 base rate proceeding, the Commission made the program a permanent tariff option.³ The XLBIR was also approved as part of the agreement. The riders, which require a five-year electric service contract (the XLBIR requires a ten-year contract), provide base rate credits for new businesses that meet certain requirements such as minimum monthly load, job creation, and capital investment. Customers must also verify that the availability of the riders is a significant factor in their location or expansion decision.

Staff issued a data request to Gulf on October 6, 2017, and the company responded on October 13, 2017. Attachment A of this recommendation provides the rider tariff sheets indicating the proposed changes. The Commission has jurisdiction over this matter pursuant to Sections 288.035 and 366.06, Florida Statutes.

² Order No. PSC-16-0269-CO-EI, issued July 15, 2016, in Docket No. 20160090-EI, *In re: GPC's petition for limited extension of experimental business incentive rate riders until 12/31/17*.

³ Order No. PSC-17-0178-S-EI, issued May 16, 2017, in Docket No. 160186-EI, *In re: Petition for rate increase by Gulf Power Company*.

Discussion of Issues

Issue 1: Should the Commission approve Gulf's petition for modifications to its Business Incentive Rate Riders?

Recommendation: Yes, the Commission should approve Gulf's petition for modifications to its Business Incentive Rate Riders effective November 7, 2017. (Morgan)

Staff Analysis: The riders are designed to attract new commercial and industrial customers to Gulf's service territory and foster economic growth. The riders offer base rate electric price incentives over a four to nine-year period for new or expanding businesses that meet certain electric load and full-time employee (FTE) requirements. Table 1-1 shows the requirements for customers to join each rider.

Table 1-1
Requirements by Rider

Rider	Monthly Load	Number of FTEs	Capital Investment
XLBIR	5 MW	50	\$1,000,000
LBIR	1,000 kW	50	\$1,000,000
MBIR	350 kW	25	None
SBIR	200 kW	10	None

Source: Tariff Sheet Nos. 6.93, 6.95, 6.97, 6.104

Eligible customers must agree to a minimum five-year service agreement (ten-year agreement in the XLBIR) and submit documentation verifying the current number of FTEs, each year. Table 1-2 illustrates the credits by rider which will be applied to the customer's base demand and energy charges.

Table 1-2
Reduction in Base Demand and Energy Charges

Year	XLBIR*	LBIR	MBIR	SBIR
1	60%	60%	40%	20%
2	53%	45%	30%	15%
3	47%	30%	20%	10%
4	40%	15%	10%	5%
5-9*	33% to 7 %	None	None	None

Source: Tariff Sheet Nos. 6.93, 6.95, 6.97, 6.104

* Not shown, the credits for the XLBIR decline from 27 percent in Year 6 to 7 percent in Year 9. In Year 10, there are no credits.

In response to staff's data request, Gulf stated that it currently has two subscribers to the riders, which carry a 504 kW load, employ 94 FTEs, and have a total capital investment of \$3.6 million. These subscribers have received total credits of \$42,059 to date. Gulf has four additional customers that have committed to joining the riders. These four customers are expected to bring a 15.5 MW load, 5,640 jobs, and \$42 million in electricity revenue to Gulf's territory between 2017 and 2018.

In addition, Gulf has begun negotiations with prospective customers whose load would bring the riders' total near or over the 100 MW limit. The company states that the limit hinders negotiations due to the uncertainty of the riders' future capacity. The 100 MW limit was originally placed on a three-year pilot program. Gulf asserts that removal of the limit on the now-permanent program will enhance its effectiveness. Per Rule 25-6.0426, Florida Administrative Code, utilities can recover 95 percent of economic development expenses, not to exceed the lesser of 0.15 percent of annual revenues or \$3 million. Despite this rule, Gulf is not seeking recovery of its economic development expenses as part of this request.

Gulf has demonstrated that the riders have successfully attracted new load, jobs, capital investment, and incremental base revenues to Gulf's service territory. The riders provide benefits to the general body of ratepayers through additional revenue and load, over which fixed costs are spread. Also, at this time, Gulf is not seeking recovery of these expenses. Therefore, staff recommends that the Commission should approve Gulf's petition for modifications to its Business Incentive Rate Riders effective November 7, 2017.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenue held subject to refund, pending resolution of a protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Trierweiler)

Staff Analysis: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenue held subject to refund, pending resolution of a protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.



Section No. VI
Original-First Revised Sheet No. 6.103
Canceling Original Sheet No. 6.103

PAGE	EFFECTIVE DATE
1 of 2	July 1, 2017

Rate Rider XLBIR Extra-Large Business Incentive Rider (Optional Rider)

AVAILABILITY:

This Rate Rider is available to all Customers within Gulf Power's service area who meet qualifying load and employment requirements.

The qualifying load and employment requirements under this Rider must be achieved at the same delivery point. Additional metering equipment may be required for service under this Rider.

APPLICABILITY:

Applicable to New Load as a Rate Rider to the rates specified below. All terms and conditions of the rate under which the Customer takes service remain applicable, except that the Customer's billing will be credited by the incentive specified below beginning with the commencement of service pursuant to this Rider. New Load is that which is added via connection of initial service or net incremental load above that which existed prior to approval for service under this rider. ~~Service under this rider must occur after the effective date of this Rider but not later than the date that the Company determines that the subscription limit of 100 MW has been reached for all New Load under this Rider together with the companion Riders, SEIR, MBIR, and LBIR.~~

Rate Rider XLBIR shall only be combined with Rate Schedules LP, LPT, PX, PXT or RTP. If a change in ownership occurs during the Term of Service under this Rider, the successor Customer may be allowed to fulfill the balance of the Contract under this Rider.

ISSUED BY: S. W. Connally, Jr.



Section No. VI
Second Third Revised Sheet No. 6.92
Canceling First Second Revised Sheet No. 6.92

PAGE	EFFECTIVE DATE
1 of 2	July 1, 2017

**Rate Rider LBIR
Large Business Incentive Rider
(Optional Rider)**

AVAILABILITY:

This Rate Rider is available to all Customers within Gulf Power's service area who meet qualifying load and employment requirements.

The qualifying load and employment requirements under this Rider must be achieved at the same delivery point. Additional metering equipment may be required for service under this Rider.

APPLICABILITY:

Applicable to New Load as a Rate Rider to the rates specified below. All terms and conditions of the rate under which the Customer takes service remain applicable, except that the Customer's billing will be credited by the incentive specified below beginning with the commencement of service pursuant to this Rider. New Load is that which is added via connection of initial service or net incremental load above that which existed prior to approval for service under this rider. ~~Service under this rider must occur after the effective date of this Rider but not later than the date that the Company determines that the subscription limit of 100 MW has been reached for all New Load under this Rider together with the companion Riders, SBIR, MBIR, and XLEIR.~~

Rate Rider LBIR shall only be combined with Rate Schedules LP, LPT, PX, PXT or RTP. If a change in ownership occurs during the Term of Service under this Rider, the successor Customer may be allowed to fulfill the balance of the Contract under this Rider.

ISSUED BY: S. W. Connally, Jr.



Section No. VI
Second ~~Third~~ Revised Sheet No. 6.94
Canceling First ~~Second~~ Revised Sheet No. 6.94

PAGE	EFFECTIVE DATE
1 of 2	July 1, 2017

Rate Rider MBIR Medium Business Incentive Rider (Optional Rider)

AVAILABILITY:

This Rate Rider is available to all Customers within Gulf Power's service area who meet qualifying load and employment requirements.

The qualifying load and employment requirements under this Rider must be achieved at the same delivery point. Additional metering equipment may be required for service under this Rider.

APPLICABILITY:

Applicable to New Load as a Rate Rider to the rates specified below. All terms and conditions of the rate under which the Customer takes service remain applicable, except that the Customer's billing will be credited by the incentive specified below beginning with the commencement of service pursuant to this Rider. New Load is that which is added via connection of initial service or net incremental load above that which existed prior to approval for service under this rider. Service under this rider must occur after the effective date of this Rider but not later than the date that the Company determines that the subscription limit of 160 KVA has been reached for all New Load under this Rider together with the companion Riders SBIR, LBIR, and XLEIR.

Rate Rider MBIR shall only be combined with Rate Schedules GSD, GSDD, GSTOU, LP, LPT, PX, PXT or RTP. If a change in ownership occurs during the Term of Service under this Rider, the successor Customer may be allowed to fulfill the balance of the Contract under this Rider.

ISSUED BY: S. W. Connally, Jr.



Section No. VI
~~Second Third~~ Revised Sheet No. 6.96
Canceling First ~~Second~~ Revised Sheet No. 6.96

PAGE	EFFECTIVE DATE
1 of 2	July 1, 2017

Rate Rider SBIR Small Business Incentive Rider (Optional Rider)

AVAILABILITY:

This Rate Rider is available to all Customers within Gulf Power's service area who meet qualifying load and employment requirements.

The qualifying load and employment requirements under this Rider must be achieved at the same delivery point. Additional metering equipment may be required for service under this Rider.

APPLICABILITY:

Applicable to New Load as a Rate Rider to the rates specified below. All terms and conditions of the rate under which the Customer takes service remain applicable, except that the Customer's billing will be credited by the incentive specified below beginning with the commencement of service pursuant to this Rider. New Load is that which is added via connection of initial service or the net incremental load above that which existed prior to approval for service under this rider. Service under this rider must occur after the effective date of this Rider but not later than the date that the Company determines that the subscription limit of 166 MW has been reached for all New Load under this Rider together with the companion Riders, MBIR, LBIR, and XLEIR.

Rate Rider SBIR shall only be combined with Rate Schedules GSD, GSDT, GSTOU, LP, LPT, PX, PXT or RTP. If a change in ownership occurs during the Term of Service under this Rider, the successor Customer may be allowed to fulfill the balance of the Contract under this Rider.

ISSUED BY: S. W. Connally, Jr.

Item 11

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Doherty, Draper) *ESD*
Office of the General Counsel (Mapp) *CRM JSC*

RE: Docket No. 20170180-GU – Petition by the Florida Division of Chesapeake Utilities Corporation for approval of special contract with Mosaic Fertilizer LLC.

AGENDA: 11/07/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

RECEIVED FPSC
2017 OCT 26 AM 9:12
COMMISSION
CLERK

Case Background

On August 23, 2017, the Florida Division of Chesapeake Utilities Corporation (Chesapeake or company) filed a petition for approval of a special contract with Mosaic Fertilizer, LLC (Mosaic). Chesapeake is a local distribution company subject to the regulatory jurisdiction of the Commission pursuant to Chapter 366, Florida Statutes (F.S.). Mosaic is in the business of mining, processing phosphate, and manufacturing fertilizer. Mosaic purchases natural gas for its New Wales facility in Polk County, Florida, which is involved in the production of phosphate fertilizer.

During its evaluation of the petition, staff issued a data request to Chesapeake for which a response was received on September 19, 2017. The Commission has jurisdiction pursuant to Sections 366.04, 366.05, and 366.06, F.S.

Discussion of Issues

Issue 1: Should the Commission approve the special contract between Chesapeake and Mosaic?

Recommendation: Yes. The Commission should approve the special contract shown in Attachment A between Chesapeake and Mosaic. The contract should be effective as of the date of the Commission's vote. (Doherty, Draper)

Staff Analysis: To evaluate the proposed special contract, staff is providing some background information regarding Chesapeake's transportation service provided to Mosaic.

Background

Mosaic is a large volume natural gas transportation customer and currently takes service under Chesapeake's Firm Transportation Service - 13 (FTS-13) rate schedule. The FTS-13 rates were approved by the Commission in Chesapeake's 2009 rate case.¹ The FTS-13 rate schedule contains a flat monthly rate of \$16,692.25 and no per therm usage charge. Mosaic continues to be the only customer on the FTS-13 rate schedule. In the 2009 rate case, the FTS-13 rate was designed based on Mosaic's cost to bypass the company's distribution system while also recovering Chesapeake's cost to provide service to Mosaic. Mosaic has the ability to bypass Chesapeake's distribution system since the Florida Gas Transmission (FGT) pipeline traverses Mosaic's property and Mosaic could directly interconnect with FGT.

Chesapeake only provides transportation service to Mosaic as Chesapeake does not purchase the actual gas commodity for its customers; rather, customers purchase gas from third party marketers or shippers. The FTS-13 rate is available to customers whose annual transportation volume is greater than 12,500,000 therms.

In October 2014, the Commission closed the FTS-13 rate schedule to new customers and grandfathered Mosaic under the FTS-13 rate.² Since the FTS-13 rate was designed based on Mosaic's cost to serve, a new customer seeking service under the same tariff may not have the same cost profile as Mosaic, potentially resulting in the new customer being subsidized by the general body of ratepayers.

Due to Mosaic's current business requirements and processes, its gas transportation volumes have dropped below the 12,500,000 therms annual transportation requirement of the FTS-13 rate schedule. As a result of this reduced level of usage, Mosaic now qualifies for the FTS-12 rate schedule that is available to customers with annual therm usage between 2,500,000 and 12,500,000 therms. Under the current Commission approved FTS-12 charges, Mosaic would have to pay a firm transportation charge (\$9,000) as well as a usage charge (\$0.06123 per therm), resulting in a monthly bill of approximately \$72,372.

¹ Order No. PSC-10-0029-PAA-GU, issued January 14, 2010, in Docket No. 090125-GU, *In re: Petition for increase in rates by Florida Division of Chesapeake Utilities Corporation.*

² Order No. PSC-14-0592-TRF-GU, issued October 22, 2014, in Docket No. 140151-GU, *In re: Petition of the Florida Division of Chesapeake Utilities Corporation to Close Rate Schedule Firm Transportation Service - 13 (FTS-13).*

Chesapeake explained in the petition that reclassifying Mosaic as an FTS-12 customer would significantly increase Mosaic's monthly bill; therefore, Chesapeake identified the most practical step was to negotiate the proposed contract as requested by Mosaic. Rule 25-9.034, Florida Administrative Code, and Chesapeake's tariff require that special contracts be approved by the Commission.

Proposed Contract

The cost of service study provided by Chesapeake shows current total annual operating costs of \$102,316 for the Mosaic facilities. The cost of service includes operation and maintenance costs and taxes. Chesapeake explained that the facilities to serve Mosaic are fully depreciated. Therefore, there is no investment and no associated depreciation and return on investment included in the cost of service.

The negotiated annual fixed rate contained in the special contract (confidential) is designed to enable Chesapeake to cover its cost of service. The special contract amount is to be paid by Mosaic to Chesapeake in monthly reservation charges that are fixed and do not vary based on actual usage. The initial maximum daily quantity of gas Chesapeake is obligated to transport to Mosaic is 5,100 dekatherms, with the option for Mosaic to adjust the maximum daily quantity up to 6,100 dekatherms. The term of the special contract is five years and will be extended for additional periods of one year each unless either party gives written notice of termination.

Based on the cost of service study provided, staff agrees with Chesapeake's assertion that the monthly reservation charge recovers Mosaic's cost of service and, therefore, will provide benefits to Chesapeake's general body of ratepayers.

Conclusion

Based on the review of the petition and responses to staff's data requests, staff believes Chesapeake's representations to be reasonable and recommends that the Commission approve the special contract between Chesapeake and Mosaic as shown in Attachment A. The special contract should be effective as of the date of the Commission's vote.

Issue 2: Should this docket be closed?

Recommendation: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Mapp)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of the Consummating Order.

SPECIAL CONTRACT

THIS AGREEMENT, entered into by and between Florida Division of Chesapeake Utilities Corporation, a Delaware corporation, d/b/a Central Florida Gas ("CFG"), and hereinafter referred to as "Company" and Mosaic Fertilizer, LLC, hereinafter referred to as "Shipper."

WITNESSETH:

WHEREAS, the Company operates facilities for the distribution of natural gas in the State of Florida and currently provides natural gas transportation service to Shipper; and

WHEREAS, Shipper has requested that the Company receive from Transporter certain quantities of Gas for Shipper's account, transport such quantities on Company's distribution system, and redeliver same to Shipper's facilities located in Polk County, and Company agrees to provide such service in accordance with the terms and conditions herein.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements herein contained, the parties agree as follows:

ARTICLE I **DEFINITIONS**

Unless another definition is expressly stated, the following terms and abbreviations, when used in this Agreement and in all exhibits, recitals, and appendices contained or attached to this Agreement are intended to and shall mean as follows:

- 1.1 "Btu" means the amount of heat required to raise the temperature of one pound of water from 59 degrees Fahrenheit to 60 degrees Fahrenheit at a constant pressure of 14.73 p.s.i.a.
- 1.2 "Day" means a period of 24 consecutive hours beginning and ending at 9:00 a.m. Central Clock Time ("CCT"); provided that, in the event of a change in the definition of the corresponding term in the tariff of Florida Gas Transmission Company ("FGT") or Gulfstream Natural Gas System, LLC ("Gulfstream") on file with the Federal Energy Regulatory Commission ("FERC"), this definition shall be deemed to be amended automatically so that it is identical at all times to the definition of the corresponding term in FGT's tariff.
- 1.3 "Dekatherm" or "DT" means 1,000,000 Btu's or ten (10) Therms.

- 1.4 "Delivery Point" means the point at the connection of the facilities of an upstream party and a downstream party's facility at which the Gas leaves the outlet side of the measuring equipment of the upstream party and enters the downstream party's facility.
- 1.5 "Gas" means natural gas which is in conformance with the quality specifications of the Transporter(s).
- 1.6 "Maximum Daily Transportation Quantity" or "MDTQ" means the largest quantity of Gas, expressed in Dekatherms, that the Company is obligated to transport and make available for delivery to Shipper under this Agreement.
- 1.7 "Month" means a period beginning at 9:00 a.m. CCT on the first day of a calendar month and ending at 9:00 a.m. CCT on the first day of the next succeeding calendar month; provided that, in the event of a change in the definition of the corresponding term in the tariff of FGT and/or Gulfstream on file with the FERC, this definition shall be deemed to be amended automatically so that it is identical at all times to the definition of the corresponding term in FGT's tariff.
- 1.8 "P.O.I." means Point of Interest, that is, the point at which control and possession of Gas passes from FGT to the Company.
- 1.9 "p.s.i.a." means pounds per square inch absolute.
- 1.10 "p.s.i.g." means pounds per square inch gauge.
- 1.11 "Receipt Point" means the point at which Gas is received by Transporters into Transporters' system from an upstream service or facility.
- 1.12 "Shipper's Facilities" means the New Wales Plant located in Polk County, Florida owned by Mosaic Fertilizer LLC.
- 1.13 "Therm" means a unit of heat equal to 100,000 Btu's.
- 1.14 "Transporter" means any third party pipeline or pipelines utilized to effect delivery of Gas to Shipper's Facilities.

ARTICLE II

POINTS OF DELIVERY AND REDELIVERY

- 2.1 Shipper shall cause the Transporter to deliver to Company at the Delivery Point on Transporter's system (which specified Delivery Point is hereinafter referred to as "Transporter's Delivery Point"), the quantities of Gas to be transported by Company hereunder. Company shall have no responsibility for transportation of Shipper's Gas prior to receipt of such Gas from Transporter at Transporter's Delivery Point. Company shall deliver such quantities of Gas received from Transporter at Transporter's Delivery Point for Shipper's account to Company's Delivery Point at the Shipper's Facilities (hereinafter referred to as "Company's Delivery Point").

ARTICLE III
QUANTITIES

- 3.1 Subject to the terms and conditions of this Agreement, Company agrees to receive from Transporter, at Transporter's Delivery Point, on a daily basis, a quantity of Gas up to Shipper's MDTQ, and Company agrees to transport and deliver equivalent quantities of Gas to Shipper at Company's Delivery Point located at Shipper's Facilities. Shipper's MDTQ under this Agreement shall fall within the range of the quantities of Gas per day as shown in Exhibit A to this Agreement, which is incorporated herein by reference and made a part hereof. The initial amount of the MDTQ shall be the minimum amount identified in the MDTQ range. By mutual agreement of the Parties, in writing, adjustments to the MDTQ may be made to correspond with adjustments to capacity relinquished to Shipper pursuant to that certain Capacity Relinquishment Agreement entered into by the Parties on September 1, 2017, whereby Shipper may request modification of the capacity quantities to be effective with the subsequent Renewal Term and Company, as Relinquishing Shipper, may, but is not obligated to, agree to the requested modification or other mutually-acceptable modification to the capacity quantities for the subsequent Renewal Term.

ARTICLE IV
SCHEDULING AND BALANCING

- 4.1 Shipper shall be responsible for nominating quantities of Gas to be delivered by Transporter to Transporter's Delivery Point and delivered by Company to Shipper's Facilities. Shipper shall promptly provide notice to Company of all such nominations. Such notices shall be provided to Company electronically as both parties may agree. Imbalances between quantities (i) scheduled for delivery by the Transporter to Company and/or delivery by Company to Shipper's Facilities, and (ii) actually delivered by the Transporter and/or Company hereunder, shall be resolved in accordance with the applicable provisions of Company's Florida Public Service Commission ("FPSC") Natural Gas Tariff, as such provisions may be amended from time to time, subject to approval by the FPSC.
- 4.2 The parties hereto recognize the desirability of maintaining a uniform rate of flow of Gas to Shipper's Facility over each 24-hour period and each Day throughout each Month. Therefore, Company agrees to receive from the Transporter for Shipper's account at Transporter's Delivery Point and deliver to Company's Delivery Point up to the MDTQ as described in Exhibit A attached hereto, subject to any restrictions imposed by the Transporter and to the provisions of Articles V and IX of this Agreement, and Shipper agrees to use reasonable efforts to regulate its deliveries from Company's gas distribution system at a daily rate of flow not to exceed the applicable nomination in place subject to any additional restrictions imposed by the Transporter or by Company pursuant to Articles V and VI of this Agreement

ARTICLE V
CURTAILMENT

- 5.1 This Agreement in all aspects shall be and remain subject to the applicable provisions of Company's Curtailment Plan, as filed with the FPSC.

ARTICLE VI
TITLE, CONTROL AND INDEMNIFICATION

- 6.1 Shipper warrants that it will have good and merchantable title to all Gas delivered by the Transporter to Company for Shipper's account at Transporter's Delivery Point, and that to the extent of Shipper's commercial control, such Gas will be free and clear of all liens, encumbrances, and claims whatsoever. In the event any adverse claim in respect to said Gas is asserted, or Shipper breaches its warranty herein, Company shall not be required to perform its obligations to transport and deliver said Gas to Shipper's Facilities, subject to receipt of any necessary regulatory authorization, to continue service hereunder for Shipper until such claim has been finally determined; provided, however, that Shipper may receive service if (i) in the case of an adverse claim, Shipper furnishes a bond to Company, conditioned for the protection of Company with respect to such claim; or (ii) in the case of a breach of warranty, Shipper promptly furnishes evidence, satisfactory to Company, of Shipper's title to said Gas.
- 6.2 Shipper shall be deemed to be in control and possession of the Gas prior to delivery to Transporter's Delivery Point; and Company shall be deemed to be in control and possession of the Gas to be transported by it upon delivery of such Gas by Transporter to Transporter's Delivery Point and until it shall have been delivered to Company's Delivery Point.
- 6.3 (a) For value received and to induce Company to enter into this Agreement, Shipper agrees to protect, defend (at Shipper's expense and by counsel satisfactory to Company), indemnify, and save and hold harmless Company, its officers, directors, shareholders, employees, agents, successors and assigns, from and against all direct or indirect costs, expenses, damages, losses, obligations, lawsuits, appeals, claims, or liabilities of any kind or nature (whether or not such claim is ultimately defeated), including in each instance, but not limited to, all costs and expenses of investigating and defending any claim at any time arising and any final judgments, compromises, settlements, and court costs and attorneys' fees, whether foreseen or unforeseen (including all such expenses, court costs, and attorneys' fees in the enforcement of Company's rights hereunder), incurred by Company in connection with or arising out of or resulting from or relating to:
1. any breach of any of the representations, warranties, or covenants of Shipper contained in this Agreement or in any Exhibit, Schedule, or other document attached hereto and/or incorporated by reference herein, specifically including but not limited to:

- a. any Transporter penalties or other expenses or liabilities for unauthorized overrun or underrun Gas, for monthly imbalances, for failure to comply with its FERC Tariff, or for failure to comply with a curtailment notice or to take deliveries as scheduled, pursuant to Sections 3.1 and 4.1 of this Agreement; and
 - b. any breach by Shipper of warranty of title to Gas and related obligations, pursuant to Sections 6.1 and 6.2 of this Agreement;
2. any claim by a creditor of Shipper as a result of any transaction pursuant to or contemplated by this Agreement;
 3. any claim against Company relating to any obligation or liability of Shipper; and
 4. the operations or activities of Shipper in performance of this Agreement.

In the event that any claim or demand for which Shipper would be liable to Company hereunder is asserted against or sought to be collected from Company by a third party, Company shall promptly notify Shipper of such claim or demand, specifying the nature of such claim or demand and the amount or the estimated amount thereof, if determination of an estimate is then feasible (which estimate shall not be conclusive of the final amount of such claim or demand) (the "Claim Notice"). Shipper shall have twenty (20) days, or such shorter period as the circumstances may require if litigation is involved, from the personal delivery or mailing of the Claim Notice (the "Notice Period") to notify Company:

1. whether or not it disputes its liability to Company hereunder with respect to such claim or demand; and
2. whether or not it desires, at its sole cost and expense, to defend Company against such claim or demand.

In the event that Shipper notifies Company within the Notice Period that it desires to defend Company against such claim or demand and except as hereinafter provided, Shipper shall have the right to defend Company by appropriate proceedings, which proceedings shall be promptly settled or prosecuted by Shipper to a final conclusion in any manner as to avoid any risk of Company becoming subject to any liability for such claim or demand or for any other matter. If Company desires to participate in, but not control, any defense or settlement, it may do so at its sole cost and expense. If Shipper elects not to defend Company against such claim or demand, whether by not giving Company timely notice as provided above or otherwise, then the amount of any such claim or demand, or, if the same is contested by Shipper or by Company (Company having no obligation to contest any such claim or demand), then that portion thereof as to which such defense is unsuccessful, shall be conclusively deemed to be a liability of Shipper and subject to indemnification as provided hereinabove.

(b) For value received and to induce Shipper to enter into this Agreement, Company agrees to protect, defend (at Company's expense and by counsel satisfactory to Shipper), indemnify, and save and hold harmless Shipper, its officers, directors, shareholders, employees, agents, successors and assigns, from and against all direct or indirect costs, expenses, damages, losses, obligations, lawsuits, appeals, claims, or liabilities of any kind or nature (whether or not such claim is ultimately defeated), including in each instance, but

not limited to, all costs and expenses of investigating and defending any claim at any time arising and any final judgments, compromises, settlements, and court costs and attorneys' fees, whether foreseen or unforeseen (including all such expenses, court costs, and attorneys' fees in the enforcement of Shipper's rights hereunder), incurred by Shipper in connection with or arising out of or resulting from or relating to or incident to:

1. any breach of any of the representations, warranties, or covenants of Company contained in this Agreement or in any Exhibit, Schedule, or other document attached hereto and/or incorporated by reference herein, specifically including, but not limited to, any breach by Company of warranty of title to Gas and related obligations, pursuant to Sections 6.1 and 6.2 of this Agreement;
2. any claim by a creditor of Company as a result of any transaction pursuant to or contemplated by this Agreement;
3. any claim against Shipper relating to any obligation or liability of Company, or its affiliates; and
4. the operations or activities of Company in performance of this Agreement.

In the event that any claim or demand for which Company would be liable to Shipper hereunder is asserted against or sought to be collected from Shipper by a third party, Shipper shall promptly notify Company of such claim or demand, specifying the nature of such claim or demand and the amount or the estimated amount thereof, if determination of an estimate is then feasible (which estimate shall not be conclusive of the final amount of such claim or demand). Company shall have twenty (20) days, or such shorter period as the circumstances may require if litigation is involved, from the personal delivery or mailing of the Claim Notice to notify Shipper:

1. whether or not it disputes its liability to Shipper hereunder with respect to such claim or demand; and
2. whether or not it desires, at its sole cost and expense, to defend Shipper against such claim or demand.

In the event that Company notifies Shipper within the Notice Period that it desires to defend Shipper against such claim or demand and except as hereinafter provided, Company shall have the right to defend Shipper by appropriate proceedings, which proceedings shall be promptly settled or prosecuted by Company to a final conclusion in any manner as to avoid any risk of Shipper becoming subject to any liability for such claim or demand or for any other matter. If Shipper desires to participate in, but not control, any defense or settlement, it may do so at its sole cost and expense. If Company elects not to defend Shipper against such claim or demand, whether by not giving Shipper timely notice as provided above or otherwise, then the amount of any such claim or demand, or, if the same is contested by Company or by Shipper (Shipper having no obligation to contest any such claim or demand), then that portion thereof as to which such defense is unsuccessful, shall be conclusively deemed to be a liability of Company and subject to indemnification as provided hereinabove.

(c) The foregoing indemnification and hold harmless agreement shall benefit both parties from the date hereof and shall survive the termination of this Agreement.

ARTICLE VII
RATE

- 7.1 The rate to be charged each month for transportation service provided by Company shall be as set forth in Exhibit A to this Agreement, which is incorporated herein by reference and made a part hereof. The rate, as set forth in Exhibit A, has been negotiated between the parties and includes only Company's delivery charge per month for Gas transported and redelivered under this Agreement and does not include any charges for transportation service by FGT or any other Transporter transporting Shipper's Gas prior to delivery to Company at the Transporter's Delivery Point. The rate provided in Exhibit A is subject to the continuing jurisdiction of the FPSC and may be adjusted during the term of this Agreement only by Order of the FPSC. Company shall notify Shipper as soon as it receives any notice from FPSC of a proposed rate change.
- 7.2 If, during the term of this Agreement, the Federal Government, or any State, municipality or subdivision of such Government, should increase any present tax or levy any additional tax, relating to the service provided by Company under this Agreement, any such additional tax required by law to be paid by Company shall, in Company's discretion, insofar as such discretion is provided for under applicable law, be separately stated in the bill. If, during the term of this Agreement, the Federal Government, or any State, municipality or subdivision of such Government, should decrease or eliminate any tax relating to the service provided by Company under this Agreement, the reduction in such tax required to be paid by Company shall be separately stated as a reduction in the amount of the bill retroactive to the effective date of such tax reduction.

ARTICLE VIII
TERM

- 8.1 Subject to all other provisions, conditions, and limitations hereof, this Agreement shall be effective on, and shall continue in full force and effect for an initial period of five (5) years, and shall thereafter be extended for additional periods of one year each; unless either party gives written notice of termination to the other party, not less than one hundred and eighty (180) days prior to the expiration of the initial or any subsequent term. This Agreement may only be terminated earlier in accordance with the provisions of this Agreement or if mutually agreed to by the parties in writing.

ARTICLE IX
DEFAULT

- 9.1 The following shall constitute an event of default:
- (a) Shipper or Company fails to satisfy in full the terms and conditions of this Agreement.
 - (b) Shipper or Company voluntarily suspends the transaction of business where there is an attachment, execution or other judicial seizure of any portion of their respective assets;
 - (c) Shipper or Company becomes insolvent or unable to pay its debts as they mature or makes an assignment for the benefit of creditors;
 - (d) Shipper or Company files, or there is filed against it, a petition to have it adjudged bankrupt or for an arrangement under any law relating to bankruptcy; or
 - (e) Shipper or Company applies for or consents to the appointment of a receiver, trustee or conservator for any portion of its properties or such appointment is made without its consent.
- 9.2 If either party fails to perform its obligations under this Agreement, the non-defaulting party shall notify the defaulting party in writing (the "Default Notice") within three (3) days after the non-defaulting party obtained knowledge of such failure to perform. Each such Default Notice shall describe in detail the act or event constituting the non-performance by the defaulting party. The defaulting party shall have five (5) days after its receipt of the Default Notice to cure any such failure to perform, unless such cure cannot be accomplished using reasonable efforts within said five (5) day period, in which case the defaulting party shall have such additional time as may be necessary, using reasonable efforts, to cure such non-performance (the "Default Cure Period").
- 9.3 In the event of a default that is not cured within the Default Cure Period, the non-defaulting party may, at its option, exercise any, some or all of the following remedies, concurrently or consecutively:
- (a) any remedy specifically provided for in this Agreement;
 - (b) terminate the Agreement by written notice to the defaulting party; and/or
 - (c) any remedy existing at law or in equity.

ARTICLE X
COMPANY'S TARIFF PROVISIONS

- 10.1 Company's applicable Rate Schedule provisions to the extent mutually agreed upon by the parties in writing, may be incorporated into this Agreement, and applicable Subsections of the Rules and Regulations of Company's Natural Gas Tariff approved by the FPSC, including any amendments thereto approved by the FPSC during the term of this Agreement, are hereby incorporated into this Agreement and made a part hereof. In the event of any conflict between said provisions of Company's FPSC Natural Gas Tariff and

specific provisions of this Agreement, the latter shall prevail, in the absence of an FPSC Order to the contrary.

ARTICLE XI
SAFE DESIGN AND OPERATION

- 11.1 Company warrants that its distribution system is currently built and maintained in accordance with the Federal Department of Transportation ("FDOT") Regulations, Sections 191 and 192 and Chapters 25-7 and 25-12 of the Florida Public Service Commission, and covenants that it shall maintain its distribution system in accordance with the Federal Department of Transportation ("FDOT") Regulations, Sections 191 and 192 and Chapters 25-7 and 25-12 of the Florida Public Service Commission, which has statutory powers granted to establish rules and standards for safe design, installation, operation and maintenance of natural gas systems. Company covenants and agrees it shall maintain, repair and replace equipment to assure the safety and good working order of the Company natural gas system at no cost to Shipper for the term of this agreement.
- 11.2 It shall be the responsibility of Shipper to maintain all Shipper-owned equipment, starting from the outlet side of the measurement equipment at the Company's Delivery Point.
- 11.3 Shipper shall have the right to periodic third-party independent inspections of equipment. Inspections performed shall be at Shipper's cost. Company covenants and agrees to correct any defects noted by such inspection which are not in conformance with FDOT and FPSC Regulations referenced above in Section 11.1 at Company's cost.

ARTICLE XII
MISCELLANEOUS PROVISIONS

- 12.1 Notices and other communications. Any notice, request, demand, statement or payment provided for in this Agreement, unless otherwise specified, shall be sent to the Parties hereto at the following addresses:

Shipper: Mosaic Fertilizer LLC

Attention: Michele Bidulka

Phone: 306-523-2810

E-mail: Michele.bidulka@mosaicco.com/

brett.belknap@mosaicco.com/steve.davis@mosaicco.com

Company: Central Florida Gas Company

Attention: Energy Logistics

Phone: 561-846-1019

Facsimile: 561-366-1523

E-mail: cfiggascontrol@chpk.com/jbauersmith@chpk.com

- 12.2 Headings. All article headings, section headings and subheadings in this Agreement are inserted only for the convenience of the parties in identification of the provisions hereof and shall not affect any construction or interpretation of this Agreement.
- 12.3 Entire Agreement. This Agreement, including the Exhibits attached hereto, sets forth the full and complete understanding of the parties as of the date of its execution by both parties, and it supersedes any and all prior negotiations, agreements and understandings with respect to the subject matter hereof. No party shall be bound by any other obligations, conditions or representations with respect to the subject matter of this Agreement.
- 12.4 Amendments. Neither this Agreement nor any of the terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing signed by the Party against which enforcement of the termination, amendment, supplement, waiver or modification shall be sought. A change in (a) the place to which notices pursuant to this Agreement must be sent or (b) the individual designated as the Contact Person pursuant to Section 12.1 shall not be deemed nor require an amendment of this Agreement provided such change is communicated in accordance with Section 12.1 of this Agreement. Further, the parties expressly acknowledge that the limitations on amendments to this Agreement set forth in this section shall not apply to or otherwise limit the effectiveness of amendments which are necessary to comply with the requirements of, or are otherwise approved by FPSC or its successor agency or authority.
- 12.5 Severability. If any provision of this Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision; provided, however, that if such severability materially changes the economic benefits of this Agreement to either party, the parties shall negotiate an equitable adjustment in the provisions of this Agreement in good faith.
- 12.6 Waiver. No waiver of any of the provisions of this Agreement shall be deemed to be, nor shall it constitute, a waiver of any other provision whether similar or not. No single waiver shall constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.
- 12.7 Attorneys' Fees and Costs. In the event of any dispute arising concerning this Agreement, the parties shall in the first instance attempt informal Mediation to resolve the dispute. Thereafter, in the event of litigation relative to, or arising out of the relationship of the Parties as evidenced by this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party, in addition to any other sums which may be found to be due, all costs incurred and reasonable attorneys' fees, including, but not limited to, all such costs and fees incurred during investigation, in preparation for trial, at trial, at retrial, upon rehearing or appeal of the decision of any tribunal, in bankruptcies, and in any administrative proceedings.

- 12.8 Independent Parties. Company and Shipper shall perform hereunder as independent parties and neither Company or Shipper is in any way or for any purpose, by virtue of this Agreement or otherwise, a partner, joint venture, agent, employer or employee of the other. Nothing in this Agreement shall be for the benefit of any third person for any purpose, including, without limitation, the establishing of any type of duty, standard of care or liability with respect to any third person.
- 12.9 Assignment and Transfer. No assignment of this Agreement by either party may be made without the prior written approval of the other party (which approval shall not be unreasonably withheld) and unless the assigning or transferring party's assignee or transferee shall expressly assume, in writing, the duties and obligations under this Agreement of the assigning or transferring party, and upon such assignment or transfer and assumption of the duties and obligations, the assigning or transferring party shall furnish or cause to be furnished to the other party a true and correct copy of such assignment or transfer and assumption of duties and obligations.
- 12.10 Governmental Authorizations; Compliance with Law. This Agreement shall be subject to all valid applicable state, local and federal laws, orders, directives, rules and regulations of any governmental body, agency or official having jurisdiction over this Agreement and the transportation of Gas hereunder. Company and Shipper shall comply at all times with all applicable federal, state, municipal, and other laws, ordinances and regulations. Company and/or Shipper will furnish any information or execute any documents required by any duly constituted federal or state regulatory authority in connection with the performance of this Agreement. Each party shall proceed with diligence to file any necessary applications with any governmental authorities for any authorizations necessary to carry out its obligations under this Agreement. In addition to the foregoing, Company shall file within sixty (60) business days an appropriate petition with the FPSC seeking approval of this Agreement as a Special Contract. In the event FPSC approval occurs after September 1, 2017 the Company shall retroactively adjust any rendered bills to Shipper for the period beginning September 1, 2017 through the FPSC approval date. In the event this Agreement or any provisions herein shall be found contrary to or in conflict with any such law, order, directive, rule or regulation, the latter shall be deemed to control, but nothing in this Agreement shall prevent either party from contesting the validity of any such law, order, directive, rule, or regulation, nor shall anything in this Agreement be construed to require either party to waive its respective rights to assert the lack of jurisdiction of any governmental agency other than the FPSC over this Agreement or any part thereof. In the event of such contestation, or in the event FPSC has not approved this Agreement as a Special Contract by December 31, 2017, and unless otherwise prohibited from doing so under this Section 12.10, Company shall continue to transport and Shipper shall continue to take Gas pursuant to the terms of this Agreement. In the event any law, order, directive, rule, or regulation shall prevent either party from performing hereunder, then neither party shall have any obligation to the other during the period that performance is precluded.
- 12.11 Law Governing Agreement; Venue. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of Florida. The venue for any action, at law or in equity, commenced by either party against the other and arising out of or in connection with this Agreement shall be before an agency or a court of the State of Florida having jurisdiction.

- 12.12 Counterparts. This Agreement may be executed in counterparts, all of which taken together shall constitute one and the same instrument and each of which shall be deemed an original instrument as against any party who has signed it.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates stated below.

MOSAIC FERTILIZER LLC

BY: [Signature]

NAME: W.D. [Signature]

TITLE: Senior Vice President - phosphates

DATE: 7/12/2017

CHESAPEAKE UTILITIES CORPORATION

BY: [Signature]

NAME: Kenneth [Signature]

TITLE: Vice President

DATE: 7/19/17

Item 12

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Draper, Doherty) *EAD*
Office of the General Counsel (Taylor) *WDT*

RE: Docket No. 20170191-GU – Joint petition for approval of revised swing service rider rates for the period January through December 2018, by Florida Public Utilities Company, Florida Public Utilities Company-Indiantown Division, Florida Public Utilities Company-Fort Meade and Florida Division of Chesapeake Utilities Corporation.

AGENDA: 11/07/17 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 8-Month Effective Date: 05/01/18 (60-day suspension date waived by the utility)

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2017 OCT 26 AM 9:13
COMMISSION
CLERK

Case Background

On September 1, 2017, Florida Public Utilities Company, Florida Public Utilities Company – Indiantown Division, and Florida Public Utilities Company – Fort Meade (jointly, FPUC), as well as the Florida Division of Chesapeake Utilities Corporation (Chesapeake) (jointly, Companies), filed a petition for approval of a revised swing service rider tariff for the period January through December 2018. FPUC is a local distribution company (LDC) subject to the regulatory jurisdiction of the Commission pursuant to Chapter 366, Florida Statutes (F.S.). It is a wholly-owned subsidiary of Chesapeake Utilities Corporation which is headquartered in Dover, Delaware. Chesapeake is also an LDC subject to the Commission's jurisdiction under Chapter 366, F.S. It is an operating division of Chesapeake Utilities Corporation.

The Commission first approved the Companies' swing service rider tariff in Order No. PSC-16-0422-TRF-GU (swing service order) and the initial swing service rider rates were in effect for the period March 2017 through December 2017.¹ As required in the swing service order, the Companies submitted the instant petition with revised 2018 swing service rider rates for Commission approval by September 1, 2017. The swing service rider is a cents-per-therm charge that is included in the monthly gas bill of transportation customers. This is staff's recommendation on the 2018 swing service rider rates.

The Companies waived the 60-day file and suspend provision of Section 366.06(3), F.S., on September 18, 2017. During its evaluation of the petition, staff issued a data request to the Companies for which a response was received on September 29, 2017. On October 23, 2017, the Companies filed a revised petition and associated tariff sheets to correct certain spreadsheet formulas used to compute the rates. The correction filed resulted in a minimal change to the calculations and the proposed rates. The proposed revised tariff sheets are shown in Attachment A, pages 1-4, to the recommendation. The Commission has jurisdiction over this matter pursuant to Sections 366.06, 366.04, 366.05, and 366.06, F.S.

¹ Order No. PSC-16-0422-TRF-GU, issued October 3, 2016, Docket No. 160085-GU, *In re: Joint petition for approval of swing service rider, by Florida Public Utilities Company, Florida Public Utilities Company-Indiantown Division, Florida Public Utilities Company-Fort Meade, and Florida Division of Chesapeake Utilities Corporation.*

Discussion of Issues

Issue 1: Should the Commission approve the Companies' revised swing service rider rates for the period January through December 2018?

Recommendation: Yes. The Commission should approve the proposed swing service rider rates, as revised on October 23, 2017, for the period January through December 2018. (Draper, Doherty)

Staff Analysis: The Companies incur intrastate capacity costs when they transport gas on intrastate pipelines (i.e., pipelines operating within Florida only). The swing service rider allows the Companies to recover the intrastate capacity costs from their transportation customers as intrastate pipeline projects benefit all customers. The Companies have two types of natural gas customers: sales and transportation customers.

Sales customers are primarily residential and small commercial customers that purchase gas from an LDC and receive allocations of intrastate capacity costs through the Purchased Gas Adjustment (PGA)² charge. Only Florida Public Utilities Company and Florida Public Utilities Company – Fort Meade have sales customers.

Transportation customers receive gas from third party marketers or shippers³ and, therefore, do not pay the PGA charge to the LDC. The Companies' transportation customers can be categorized as TTS (Transitional Transportation Service) or non-TTS. TTS program shippers purchase gas for residential and small commercial customers, in aggregated customer pools, who do not contract directly with a shipper for their gas supply. Only Florida Public Utilities Company – Indiantown Division and Chesapeake have TTS customers.

TTS customers receive allocations of intrastate capacity costs through the swing service rider. Prior to the approval of the swing service rider, TTS customers received allocations of intrastate capacity cost through the Operational Balancing Account (OBA) mechanism. The OBA mechanism allowed Indiantown and Chesapeake to assign intrastate capacity costs to TTS shippers, who then passed the costs on to the TTS customers for whom they purchase gas. With the approval of the swing service rider, TTS customers are now charged directly their allocated portion of the intrastate capacity costs (rather than Indiantown and Chesapeake charging the shippers who then passed the costs on to the TTS customers).

Non-TTS customers are primarily large commercial or industrial customers who contract directly with a shipper for their gas supply. Prior to the approval of the swing service rider, non-TTS customers were not paying a share of the intrastate capacity costs. The Commission approved a stepped implementation process for the swing service rider for non-TTS customers because the implementation of the swing service rider could have a significant financial impact on those customers who previously had not been allocated any portion of the intrastate capacity costs.

² The PGA charge is set by the Commission in the annual PGA proceeding.

³ The Commission does not regulate the shippers and their charges for the gas commodity.

Specifically, the swing service order approved a five-year implementation period for non-TTS customers with a 20 percent per year stepped allocation. Accordingly, the 2017 swing service charges included a 20 percent allocation of intrastate capacity costs to the non-TTS customers; the instant petition includes a 40 percent allocation of intrastate capacity costs to the non-TTS customers.

Proposed Swing Service Rider Rates

The proposed 2018 swing service rider rates, as revised on October 23, 2017, were calculated based on the same methodology approved in the swing service order. As shown in the Companies' revised petition, the total intrastate capacity costs for the period July 2016 through June 2017 are \$5,166,583. Some of these costs (\$313,726) will be billed directly to certain large special contract customers. The remaining costs, \$4,852,857 (\$5,166,583 - \$313,726), are allocated between sales and transportation customers.

The Companies used actual therm usage data for the period July 2016 through June 2017 to allocate the intrastate capacity costs. Based on the usage data, the appropriate split for allocating the cost is 70.12 percent (\$3,402,998) to transportation customers and 29.88 percent (\$1,449,859) to sales customers. The sales customers' share of the cost is embedded in the PGA.

The transportation customers' share is allocated to the various transportation rate schedules in proportion with each rate schedule's share of the Companies' total throughput. The cost allocated to each rate schedule is then divided by the rate schedule's number of therms to calculate the swing service rider rates.

As stated earlier, TTS customers are charged their allocated portion of the intrastate capacity costs, while non-TTS customers are subject to a phased implementation. Since non-TTS customers are only allocated 40 percent of the total intrastate capacity costs, the 2018 swing service revenues the Companies will receive will total \$1,550,837; the remaining \$1,852,161 (\$3,402,998 - \$1,550,837) of intrastate capacity costs allocated to transportation customers will be recovered through the PGA from sales customers.

Credit to the PGA

The total intrastate capacity costs are embedded in the PGA with the projected 2018 swing service rider revenues incorporated as a credit in the calculation of the 2018 PGA. The amount credited to the 2018 PGA is \$1,550,837, plus \$313,726 received from special contract customers, for a total of \$1,864,563.⁴ At the end of the stepped implementation period in year five, non-TTS customers will no longer receive a reduced allocation of the intrastate capacity cost, the credit to the PGA will increase accordingly, and sales customers will no longer absorb a portion of the non-TTS intrastate capacity costs.

Conclusion

Based on its review of the information provided in the petition and in response to staff's data request, staff believes that the Companies' proposed swing service rider is reasonable. Staff

⁴ See Document No. 07559-2017, Revised Petition by Florida Public Utilities Company for Approval of PGA Factor filed on September 6, 2017, in Docket No. 20170003-GU. Staff notes that the PGA reflects a credit of \$1,864,388 based on the calculation contained in the original petition filed on September 1, 2017, in the instant docket.

recommends approval of the proposed swing service rider rates, as revised on October 23, 2017, for the period January through December 2018.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Taylor)

Staff Analysis: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

Florida Public Utilities Company
F.P.S.C. Gas Tariff
Third Revised Volume No. 1

~~Fifth~~ ~~Fourth~~ Revised Sheet No. 35.6
Cancels Third ~~Fourth~~ Revised Sheet No. 35.6

BILLING ADJUSTMENTS

Swing Service Rider
Applicability

The bill for transportation service supplied to a Customer in any Billing Period shall be adjusted as follows:

The Swing Service Charge factors for the period from the first billing cycle for January 2017~~8~~ through the last billing cycle for December 2017~~8~~ are as follows:

Rate Class	Rates Per Therm
Rate Schedule GSTS-1	\$0.0090 1 65
Rate Schedule GSTS-2	\$0.0083 1 64
Rate Schedule LVTS	\$0.0083 1 62

Definitions

This surcharge allocates a fair portion of intrastate capacity costs to transportation customers in accordance with the PSC approved Swing Service Rider.

Florida Public Utilities Company, Indiantown Division
Original Volume No. 2

First Revised Sheet No. 35.2
Cancels Original Sheet No. 35.2

BILLING ADJUSTMENTS

(Continued)

Swing Service Rider

Applicability

The bill for transportation service supplied to a Customer in any Billing Period shall be adjusted as follows:

The Swing Service factors for the period from the first billing cycle for January 2017~~8~~ through the last billing cycle for December 2017~~8~~ are as follows:

<u>Rate Class</u>	<u>Classification</u>	<u>Rates Per Therm</u>
Transportation Service 1	TS1	\$0.0441428
Transportation Service 2	TS2	\$0.0392415
Transportation Service 3	TS3	\$0.0468484
Transportation Service 4	TS4	\$0.0439000

Definitions

This surcharge allocates a fair portion of intrastate capacity costs to transportation customers in accordance with the PSC approved Swing Service Rider.

Florida Division of Chesapeake Utilities Corporation
Original Volume No. 4

First Revised Sheet No. 105.4
Cancels Original Sheet No. 105.4

RATE SCHEDULES
MONTHLY RATE ADJUSTMENTS

Swing Service Rider

Applicability

The bill for transportation service supplied to a Customer in any Billing Period shall be adjusted as follows:

The Swing Service factors for the period from the first billing cycle for January 2017~~8~~ through the last billing cycle for December 2017~~8~~ are as follows:

Rate Class	Classification	Rates Per Therm
Firm Transportation Service A	FTS-A	\$0.0521444
Firm Transportation Service B	FTS-B	\$0.0539429
Firm Transportation Service 1	FTS-1	\$0.0591459
Firm Transportation Service 2	FTS-2	\$0.0627478
Firm Transportation Service 2.1	FTS-2.1	\$0.0553443
Firm Transportation Service 3	FTS-3	\$0.0504396
Firm Transportation Service 3.1	FTS-3.1	\$0.0442400
Firm Transportation Service 4	FTS-4	\$0.0091168
Firm Transportation Service 5	FTS-5	\$0.0087162
Firm Transportation Service 6	FTS-6	\$0.0084159
Firm Transportation Service 7	FTS-7	\$0.0090169
Firm Transportation Service 8	FTS-8	\$0.0075168
Firm Transportation Service 9	FTS-9	\$0.0084153
Firm Transportation Service 10	FTS-10	\$0.0063183
Firm Transportation Service 11	FTS-11	\$0.0090184
Firm Transportation Service 12	FTS-12	\$0.0071148

<u>Experimental Rate Class</u>	<u>Classification</u>	<u>Rates Per Bill</u>
Firm Transportation Service A	FTS-A	\$0.44813818
Firm Transportation Service B	FTS-B	\$0.81936526
Firm Transportation Service 1	FTS-1	\$1,2766.9913
Firm Transportation Service 2	FTS-2	\$2,74632.0915
Firm Transportation Service 2.1	FTS-2.1	\$8,43326.7497
Firm Transportation Service 3	FTS-3	\$11,28968.8726
Firm Transportation Service 3.1	FTS-3.1	\$27,974225.2995

Definitions

This surcharge allocates a fair portion of intrastate capacity costs to transportation customers in

Issued by: Michael P. McMasters, President
Chesapeake Utilities Corporation

Effective:

Florida Public Utilities Company-Fort Meade
F.P.S.C. Gas Tariff
Original Volume No.

First Revised Sheet No. 64.1
Cancels Original Sheet No. 64.1

Swing Service Rider

Applicability

The bill for transportation service supplied to a Customer in any Billing Period shall be adjusted as follows:

The Swing Service factors for the period from the first billing cycle for January 2017~~8~~ through the last billing cycle for December 2017~~8~~ are as follows:

<u>Rate Class</u>	<u>Rates Per Therm</u>
Rate Schedule GSTS-1	\$0.00761 49

Definitions

This surcharge allocates a fair portion of intrastate capacity costs to transportation customers in accordance with the PSC approved Swing Service Rider.

Item 13

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Guffey) *SKG*
Office of the General Counsel (Janjic) *EJD*

RE: Docket No. 20170189-GU – Petition for approval of safety, access, and facility enhancement program (SAFE) true-up and associated cost recovery factors, by Florida City Gas.

AGENDA: 11/07/17 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 8-Month Effective Date: 04/30/18 (60-day suspension date waived by the utility)

SPECIAL INSTRUCTIONS: None

Case Background

On August 31, 2017, Florida City Gas (City Gas or company) filed a petition for approval of its safety, access, and facility enhancement program (SAFE) true-up and associated 2018 cost recovery factors. The SAFE program was originally approved by the Commission in Order No. PSC-15-0390-TRF-GU (2015 order) to recover the cost of relocating on an expedited basis certain existing gas mains and associated facilities from rear lot easements to the street front.¹ In the 2015 order, the Commission found that the relocation to the street front provides for more direct access to facilities and will enhance the level of service provided to all customers through improved safety and reliability. The SAFE factor is a surcharge on customers' bills. The

¹ Order No. PSC-15-0390-TRF-GU, issued September 15, 2015, in Docket No. 150116-GU, *In re: Petition for approval of safety, access, and facility enhancement program and associated cost recovery methodology, by Florida City Gas.*

Commission ordered the company to file an annual petition, beginning in 2016, for a review and reset of the surcharge factors to true-up any prior over- or under-recovery and to set the surcharge for the coming year. City Gas' current SAFE factors were approved in Order No. PSC-16-0517-TRF-GU (2016 order).² The SAFE program is a 10-year program (2015 through 2025).

In its filing, City Gas waived the 60-day suspension deadline pursuant to Section 366.06(3), Florida Statutes (F.S.). City Gas filed its responses to staff's first data request on September 21, 2017. The Office of the Public Counsel (OPC) filed a Notice of Intervention on October 4, 2017, which was acknowledged by Order PSC-2017-0413-PCO-GU, issued on October 24, 2017. The proposed tariff page is contained in Attachment 2 of this recommendation. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, 366.06, and 368, F.S.

² Order No. PSC-16-0517-TRF-GU, issued November 21, 2016, in Docket No. 160198-GU, *In re: Petition for approval of safety, access, and facility enhancement program (SAFE) true-up and associated cost recovery factors, by Florida City Gas.*

Discussion of Issues

Issue 1: Should the Commission approve City Gas' proposed SAFE factors effective January 2018?

Recommendation: Yes. The Commission should approve City Gas' proposed SAFE factors with an effective date of the first billing cycle of January 2018. (Guffey)

Staff Analysis: Under the SAFE program, City Gas will relocate and replace 254.3 miles of mains and associated facilities from rear property easements to the street front over a 10-year period, ending in 2025. City Gas began its replacements at the end of 2015, as provided for in the 2015 order, and the surcharges have been in effect since January 2016.

The 2016 order approving the current surcharges states that "if City Gas files a rate case before 2025, the then-current SAFE surcharge program would be folded into any newly approved rate base, and the surcharge would begin anew." On October 23, 2017, City Gas filed a petition for a rate increase and the Commission opened Docket No. 20170179-GU to address the rate case proceeding. In the rate case, City Gas witness Michael Morley testifies that City Gas proposes to incorporate the SAFE program revenue requirement (\$3.5 million) in the requested base rate increase of \$19.3 million and reset the SAFE surcharge to \$0 at the time revised base rates will go into effect. Since the SAFE program is expected to continue until 2025, the SAFE surcharge would begin anew in 2019.

As stated in City Gas' response to staff's data request, the company's 2017 replacement plans include eight projects. Seven projects are in the Miami area (Cutler Bay, Hialeah, and South Miami Heights neighborhood). One project is in Brevard County (Merritt Island). The company's projected 2018 replacement plans include nine projects. Eight projects will be in the Miami area (South Miami Heights neighborhood, Westchester neighborhood, Hialeah, and Miami Gardens) and one project will be in Brevard County (Merritt Island). Attachment 1 of this recommendation displays City Gas' mains and services replacement progress, both actual and forecasted.

City Gas stated that its replacement projects are generally prioritized based on the risk assessment model in its Distribution Integrity Management Program (DIMP). Prioritization factors include, but are not limited to, the location of the pipeline, pipeline material, leak incident rates, and rear lot pipelines with maintenance access complications and customer encroachments.

True-ups by Year

As required by the initial 2015 order, City Gas' calculations for the 2018 revenue requirement and SAFE factors include a final true-up for 2016, an actual/estimated true-up for 2017, and projected cost for 2018. City Gas does not currently include interest on any over- or under-recoveries in its calculations.

Final True-up for 2016

City Gas stated that the revenues collected for 2016 were \$931,973 compared to a revenue requirement of \$749,325, resulting in over-recovery of \$182,647.

Actual/Estimated 2017 True-up

City Gas provided actual revenues for January through July and forecast revenues for August through December of 2017, totaling \$2,025,987, compared to an actual/estimated revenue requirement of \$2,259,077, resulting in an under-recovery of \$233,090. Adding the 2016 over-recovery of \$182,647 to the 2017 under-recovery of \$233,090, the resulting total 2017 true-up is an under-recovery of \$50,443.

Projected 2018 Costs

The company projects investment of \$30,634,858 for the relocation of gas mains from rear property easements to the street front in 2018. The corresponding revenue requirement, which includes return on investment, depreciation, and taxes, is \$3,452,072. After adding the 2017 under-recovery of \$50,443, the total 2018 revenue requirement is \$3,502,515. Table 1-1 displays the 2018 revenue requirement calculation.

**Table 1-1
2018 Revenue Requirement Calculation**

2018 Projected Replacements	\$30,634,858
Return on Investment	\$2,315,506
Depreciation Expense	\$905,272
Property Tax Expense	\$231,294
2018 Revenue Requirement	\$3,452,072
Plus 2017 Under-recovery	\$50,443
Total 2018 Revenue Requirement	\$3,502,515

Source: Exhibit B of the Petition

Proposed SAFE Factors

The SAFE factors are fixed monthly surcharges. The company's cost allocation method was approved in the 2015 order, and according to City Gas, used for the instant filing. The approved methodology allocates the current cost of a 2-inch pipe to all customers (other than those with pre-existing contracts) on a per customer basis and allocates the incremental cost of replacing a pipe larger than 2 inches to customers who use over 6,000 therms per year. For larger customers, the cost pool takes into account that the minimum pipe is insufficient to serve their demand, and therefore, allocates an incremental per foot cost in addition to the all-customer cost. The resulting allocation factors are applied to the 2018 total revenue requirement to develop the monthly customer SAFE factors.

Staff notes that the average residential customer uses approximately 240 therms per year. The proposed fixed monthly factor is \$2.60 for customers using less than 6,000 therms per year, compared to the current factor of \$1.53 per month. For customers using 6,000 therms or more per year, the proposed fixed monthly factor is \$4.76, compared to the current factor of \$2.77 per month.

Conclusion

Staff has reviewed City Gas' filing and supporting documentation and believes that the calculations are consistent with the methodology and are reasonable and accurate. Therefore, staff recommends approval of City Gas' proposed 2018 SAFE surcharge factors with an effective date of the first billing cycle of January 2018.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Janjic)

Staff Analysis: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

Table 1
Florida City Gas' SAFE Program Progress

Year	Main Replacements		Service Replacements	
	Replaced Main (miles)	Total Miles Remaining	Replaced Services (No.)	Total Remaining Services
2014	0.0	254.3	0	12,719
2015	0.0	254.3	49	12,670
2016	17.1	237.2	1,433	11,237
2017	37.5	199.7	1,557	9,680
2018	27.6	172.1	1,698	7,982
2019	25.0	147.2	1,250	6,732
2020	25.0	122.2	1,250	5,481
2021	25.0	97.2	1,250	4,231
2022	25.0	72.2	1,250	2,981
2023	25.0	47.2	1,250	1,730
2024	25.0	22.2	1,250	480
2025	22.2	0.0	480	0

Source: FCG Response to Staff's First Data Request

Florida City Gas
FPSC Natural Gas Tariff
Volume No. 8

Second-Third Revised Sheet

RIDER "F"

SAFETY, ACCESS AND FACILITY ENHANCEMENT (SAFE) PROGRAM
(Continued)

- i. all customers regarding the implementation of the SAFE Program and the approved surcharge factors;
 - ii. the immediately affected customers where the eligible infrastructure is being replaced; and
 - iii. the general public through publications (newspapers) covering the geographic areas of the eligible infrastructure replacement activities;
4. Ad valorem taxes; and
 5. Federal and state income taxes.

The Company is utilizing a surcharge mechanism in order to recover the costs associated with the SAFE Program. The Company has developed the revenue requirement for the SAFE Program using the same methodology approved in its most recent rate case. The SAFE revenue requirement will be allocated to each customer class (Rate Schedule) using allocation factors established by the Florida Public Service Commission for the SAFE Program. The per customer SAFE surcharge is calculated by dividing the revenue requirement allocated to each customer class by the number of customers in the class.

The cost recovery factors including tax multiplier for the twelve month period from January 1, 2017-2018 through December 31, 2017-2018 are:

<u>Rate Class</u>	<u>Rates Per Customer</u>
Rate Schedule GS-1	\$ 2,601.53
Rate Schedule GS-100	\$ 2,601.53
Rate Schedule GS-220	\$ 2,601.53
Rate Schedule GS-600	\$ 2,601.53
Rate Schedule GS-1.2k	\$ 2,601.53
Rate Schedule GS-6k	\$ 4,762.77
Rate Schedule GS-25k	\$ 4,762.77
Rate Schedule GS-60k	\$ 4,762.77
Rate Schedule GS-120k	\$ 4,762.77
Rate Schedule GS-250k	\$ 4,762.77
Rate Schedule GS-1.250k	\$ 4,762.77
Rate Schedule GL	\$ 2,601.53
Rate Schedule RSG	\$ 2,601.53
Rate Schedule CSG	\$ 2,601.53

Issued by:	Carolyn Bermudez	Effective:	January 1, 2017201720172018
Vice President, Southern Operations			

Item 14

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Ollila) *S.O.*
Office of the General Counsel (Brownless) *EJD GS*
PD
mmjso

RE: Docket No. 20170190-GU – Joint petition for approval of gas reliability infrastructure program (GRIP) by Florida Public Utilities Company, Florida Public Utilities Company-Fort Meade, and Florida Division of Chesapeake Utilities Corporation.

AGENDA: 11/07/17 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 8-Month Effective Date: 5/1/18 (60-day suspension date waived by the utility)

SPECIAL INSTRUCTIONS: None

COMMISSION
CLERK

2017 OCT 26 AM 9:12

RECEIVED-FPSC

Case Background

On September 1, 2017, Florida Public Utilities Company (FPUC), FPUC-Fort Meade (Fort Meade), and the Florida Division of Chesapeake Utilities Corporation (Chesapeake), collectively the company, filed a joint petition for approval of their gas reliability infrastructure program (GRIP or program) cost recovery factors for the period January through December 2018. The GRIP for FPUC and Chesapeake was originally approved in Order No. PSC-12-0490-TRF-GU (2012 order) to recover the cost of accelerating the replacement of cast iron and bare steel distribution mains and services through a surcharge on customers' bills.¹ Order No. PSC-15-

¹ Order No. PSC-12-0490-TRF-GU, issued September 24, 2012, in Docket No. 120036-GU, *In re: Joint petition for approval of Gas Reliability Infrastructure Program (GRIP) by Florida Public Utilities Company and the Florida Division of Chesapeake Utilities Corporation*.

0578-TRF-GU established a GRIP for Fort Meade and required Fort Meade to file its petition for GRIP factors concurrently with FPUC and Chesapeake.² The current GRIP surcharges were approved in Order No. PSC-16-0567-TRF-GU.³ In the 2012 order the Commission found that “Replacement of bare steel pipelines is in the public interest to improve the safety of Florida’s natural gas infrastructure, thereby reducing the risk to life and property.”

The Commission approved Chesapeake’s petition to amend the 2017 GRIP surcharge factor for commercial customers in rate class FTS-9 and to permit Chesapeake to issue refunds to the affected customers in Order No. PSC-17-0194-GU.⁴ After a customer inquiry about the factor, Chesapeake determined that the factor was overstated and that it was appropriate to refund the over-recovery of dollars to the affected customers. Rate class FTS-9 is for customers whose annual therm usage is between 400,000 and 700,000 (compared to about 240 therms per year for residential customers). Chesapeake reported that credits totaling \$71,460.62, including interest, were applied to the six FTS-9 customer accounts on May 30, 2017.

In an email, the company waived the 60-day suspension deadline pursuant to Section 366.06(3), Florida Statutes, (F.S.). On September 29, 2017, the company filed responses to staff’s first data request, including a corrected Chesapeake tariff sheet No. 105.1. The Office of Public Counsel intervened in this docket on October 3, 2017, which was acknowledged by Order No. PSC-2017-0394-PCO-GU, issued October 17, 2017. The proposed tariff sheets are contained in Attachment B (FPUC), Attachment C (Chesapeake), and Attachment D (Fort Meade). The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, F.S.

² Order No. PSC-15-0578-TRF-GU, issued December 21, 2015, in Docket No. 150191-GU, *In re: Joint petition for approval to implement gas reliability infrastructure program (GRIP) for Florida Public Utilities Company-Fort Meade and for approval of GRIP cost recovery factors by Florida Public Utilities Company, Florida Public Utilities Company-Fort Meade and the Florida Division of Chesapeake Utilities Corporation.*

³ Order No. PSC-16-0567-TRF-GU, issued December 19, 2016, in Docket No. 160199-GU, *In re: Joint petition for approval of gas reliability infrastructure program cost recovery factors by Florida Public Utilities Company, Florida Public Utilities Company-Fort Meade, and the Florida Division of Chesapeake Utilities Corporation.*

⁴ Order No. PSC-17-0194-TRF-GU, issued May 19, 2017, in Docket No. 170062-GU, *In re: Petition for approval to amend gas reliability infrastructure program (GRIP) cost recovery factor, by Florida Division of Chesapeake Utilities Corporation.*

Discussion of Issues

Issue 1: Should the Commission approve FPUC's, Chesapeake's, and Fort Meade's proposed GRIP surcharges for 2018?

Recommendation: Yes, the Commission should approve FPUC's, Chesapeake's, and Fort Meade's proposed 2018 GRIP surcharge for each rate class effective for all meter readings for the period January – December 2018. (Ollila)

Staff Analysis: The FPUC and Chesapeake GRIP surcharges have been in effect since January 2013, while Fort Meade's surcharges were first implemented in January 2017. In response to staff's data request, FPUC and Chesapeake stated that the replacement projects scheduled to be completed in 2017 are in Lake Worth, Palm Beach, Bartow, Lake Wales, and Winter Haven. Projects begun in 2017 and scheduled to be completed in early 2018 are in West Palm Beach and Lake Wales. Attachment A provides an update of mains and services replaced and replacement forecasts.

The GRIP replacement program for FPUC and Chesapeake is expected to be complete in 2022 as scheduled. In its response to staff's data request, the company explained that in the early part of the program, based on their Distribution Integrity Management Program (DIMP), FPUC and Chesapeake aggressively replaced high risk qualifying facilities first, which increased capital expenditures. As a result, more than 50 percent of the mains and service projects have been completed with five years remaining in the GRIP. FPUC and Chesapeake stated that they are attempting to allocate the remaining projects over the five years left in the program. The company noted that the program may be accelerated if municipal roadway improvement projects arise where qualifying facilities are located, helping to reduce the replacement costs.

Fort Meade's GRIP replacement program was originally expected to be complete by the end of 2018; the company stated that due to non-FPUC construction work in the area of its qualifying facilities and the lack of available contractor resources, Fort Meade has experienced delays and the replacement may extend beyond 2018.

FPUC agreed to report any depreciation and/or operations and maintenance savings as described in the 2012 order. In its response to staff's data request, the company stated that there were no depreciation and/or operations and maintenance expense savings included as a reduction in expenses. The company stated that it had determined that if there were any depreciation expense savings, they would be offset by other factors, including increased cost of removal.

FPUC's True-ups by Year

FPUC's calculations for the 2018 GRIP revenue requirement and surcharges include a final true-up for 2016, an actual/estimated true-up for 2017, and projected costs for 2018. FPUC recovers \$747,727 of annual GRIP expenses in base rates; therefore, the \$747,727 is excluded from the GRIP surcharge calculations.

Final True-up for 2016

FPUC stated that the revenues collected for 2016 were \$10,524,264, compared to a revenue requirement of \$9,006,529, resulting in an over-recovery of \$1,517,735. Adding the 2015 under-

recovery of \$2,967,684, the 2016 over-recovery of \$1,517,735, and subtracting interest of \$6,494 associated with any over- and under-recoveries, the final 2016 true-up is an under-recovery of \$1,456,443.

Actual/Estimated 2017 True-up

FPUC provided actual revenues for January through July and estimated revenues for August through December 2017, totaling \$12,397,877, compared to an actual/estimated revenue requirement for 2017 of \$10,297,955, resulting in an over-recovery of \$2,099,922. Adding the 2016 under-recovery of \$1,456,443, the 2017 over-recovery of \$2,099,922, and interest of \$5,099, the resulting total 2017 over-recovery is \$648,578.

Projected 2018 Costs

FPUC projects capital expenditures of \$6,600,000 for the replacement of cast iron/bare steel infrastructure in 2018. This compares with final 2016 expenditures of \$19,571,150 and actual/estimated 2017 expenditures of \$6,071,766. The return on investment, depreciation expense, and property tax and customer notification expense associated with that investment are \$11,640,975. Subtracting the revenue requirement for bare steel replacement investment included in base rates results in a 2018 revenue requirement of \$10,893,248. After subtracting the total 2017 over-recovery of \$648,578, the 2018 revenue requirement is \$10,244,670. Table 1-1 shows FPUC's 2018 revenue requirement calculation.

Table 1-1
FPUC 2018 Revenue Requirement Calculation

2018 Projected Expenditures	\$6,600,000
Return on Investment	\$7,669,444
Depreciation Expense	\$2,308,044
Tax and Customer Notice Expense	\$1,663,487
2018 Revenue Requirement	\$11,640,975
Less Revenue Requirement in Base Rates	\$747,727
2018 GRIP Revenue Requirement	\$10,893,248
Less 2017 Over-recovery	\$648,578
2018 Total Revenue Requirement	\$10,244,670

Source: Cassel testimony, page 5 of 5 & Schedule C-2, page 4 of 15

Chesapeake's True-ups by Year

Chesapeake's calculations for the 2018 GRIP revenue requirement and surcharges include a final true-up for 2016, an actual/estimated true-up for 2017, and projected costs for 2018. Chesapeake does not have a replacement recovery amount embedded in base rates.

Final True-up for 2016

Chesapeake stated that the revenues collected for 2016 were \$2,590,372 compared to a revenue requirement of \$2,474,720, resulting in an over-recovery of \$115,652. Adding the 2015 under-recovery amount of \$125,419, the 2016 over-recovery of \$115,652, and interest of \$88 associated with any over- and under-recoveries, the final 2016 under-recovery is \$9,679.

Actual/Estimated 2017 True-up

Chesapeake provided actual GRIP revenues for January through July and estimated revenues for August through December 2017, totaling \$2,924,819, compared to an actual/estimated revenue requirement of \$3,057,660, resulting in an under-recovery of \$132,840. Adding the 2016 under-recovery amount of \$9,679, the 2017 under-recovery of \$132,840, and interest of \$156, the total 2017 true-up is an under-recovery of \$142,364.

Projected 2018 Costs

Chesapeake projects capital expenditures of \$3,300,000 for the replacement of cast iron/bare steel infrastructure in 2018. This compares with final 2016 expenditures of \$6,453,987 and actual/estimated 2017 expenditures of \$2,852,772. The return on investment, depreciation expense, and property tax and customer notification expense to be recovered in 2018 totals \$3,383,086. After adding the total 2017 under-recovery of \$142,364, the total 2018 revenue requirement is \$3,525,450. Table 1-2 shows Chesapeake's 2018 revenue requirement calculation.

Table 1-2
Chesapeake 2018 Revenue Requirement Calculation

2018 Projected Expenditures	\$3,300,000
Return on Investment	\$2,190,536
Depreciation Expense	\$694,550
Tax and Customer Notice Expense	\$498,000
2018 Revenue Requirement	\$3,383,086
Plus 2017 Under-recovery	\$142,364
2018 Total Revenue Requirement	\$3,525,450

Source: Cassel testimony, page 5 of 5 & Schedule C-2, page 9 of 15

Fort Meade's True-ups by Year

Fort Meade started its replacement program in 2016 and first implemented GRIP surcharges in January 2017. Unlike FPUC and Chesapeake, only bare steel services (and no mains) require replacement in Fort Meade.

Final True-up for 2016

Since Fort Meade did not have a GRIP surcharge in 2016, the surcharge revenue for 2016 is \$0. The revenue requirement for 2016 is \$2,581. After adding interest associated with the under-recovery of \$1, the total 2016 under-recovery is \$2,582.

Actual/Estimated 2017 True-up

Fort Meade provided actual GRIP revenues for January through July and estimated revenues for August through December 2017, totaling \$33,624, compared to an actual/estimated revenue requirement of \$16,201, resulting in an over-recovery of \$17,603. Adding the 2016 under-recovery of \$2,582, the 2017 over-recovery of \$17,603, and interest of \$82, the resulting total 2017 true-up is an over-recovery of \$15,103.

Projected 2018 Costs

Fort Meade projects capital expenditures of \$100,000 for the replacement of cast iron/bare steel infrastructure in 2018. This compares with 2016 final expenditures of \$104,346 and actual/estimated 2017 expenditures of \$81,806. The return on investment, depreciation expense, and property tax expense to be recovered in 2018 totals \$25,019. After subtracting the total 2017 over-recovery of \$15,103, the total 2018 revenue requirement is \$9,916. Table 1-3 shows Fort Meade's 2018 revenue requirement calculation.

Table 1-3
Fort Meade 2018 Revenue Requirement Calculation

2018 Projected Expenditures	\$100,000
Return on Investment	\$16,718
Depreciation Expense	\$5,313
Tax Expense	<u>\$2,988</u>
2018 Revenue Requirement	\$25,019
Less 2017 Over-recovery	<u>\$15,103</u>
2018 Total Revenue Requirement	\$9,916

Source: Cassel testimony, page 5 of 5 & Schedule C-2, page 14 of 15

Proposed Surcharges for FPUC, Chesapeake, and Fort Meade

As established in the 2012 order approving the GRIP, the total 2018 revenue requirement is allocated to the rate classes using the same methodology that was used for the allocation of mains and services in the cost of service study used in the companies' most recent rate case. Fort Meade has the same rate schedules as FPUC; therefore, FPUC's allocation factors are used to calculate the GRIP surcharges for Fort Meade. After calculating the percentage of total plant costs attributed to each rate class, the respective percentages were multiplied by the 2018 revenue requirement, resulting in the revenue requirement by rate class. Dividing each rate class' revenue requirement by projected therm sales provides the GRIP surcharge for each rate class.

The proposed 2018 GRIP surcharge for FPUC's residential customers on the RS Schedule is \$0.24395 per therm (compared to the current surcharge of \$0.34225 per therm). The decrease in the surcharge is a result of the decrease in capital expenditures and the 2017 over-recovery discussed earlier. The monthly bill impact is \$4.88 for a residential customer using the typical 20 therms per month. The proposed FPUC tariff page is Attachment B.

The proposed 2018 GRIP surcharge for residential Chesapeake customers on the FTS-1 schedule is \$0.11838 per therm (compared to the current surcharge of \$0.10371 per therm). The monthly bill impact is \$2.37 for a residential customer using the typical 20 therms per month. The proposed Chesapeake tariff pages are contained in Attachment C.

The proposed 2018 GRIP surcharge for residential Fort Meade customers on the RS Schedule is \$0.08198 per them (compared to the current surcharge of \$0.36931 per therm). The monthly bill impact is \$1.64 for a residential customer using the typical 20 therms per month. The proposed Fort Meade tariff page is provided in Attachment D.

Conclusion

Staff believes the calculation of the 2018 GRIP surcharge revenue requirement and the proposed GRIP surcharges for FPUC, Chesapeake, and Fort Meade are reasonable and accurate. Staff recommends approval of FPUC's, Chesapeake's, and Fort Meade's proposed 2018 GRIP surcharge for each rate class effective for all meter readings for the period January – December 2018.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Brownless)

Staff Analysis: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

Table 1
FPUC Pipe Replacement Program Progress

Mains (Miles)						Number of Services				
		Remaining	Remaining			Remaining	Remaining			
Year	Replaced Cast Iron	Replaced Bare Steel	Cast Iron at Year-End	Bare Steel at Year-End	Total Remaining	Replaced Cast Iron	Replaced Bare Steel	Cast Iron at Year-End	Bare Steel at Year-End	Total Remaining
Jul-12			0.9	197.10	198.00			0	7980	7980
2012		6.00	0.9	191.10	192.00	91		0	7889	7889
2013	0.6	26.40	0.3	164.70	165.00	2071		0	5818	5818
2014		38.00	0.3	126.70	127.00	1275		0	4543	4543
2015		30.00	0.3	96.70	97.00	605		0	3938	3938
2016		22.50	0.3	74.20	74.50	555		0	3383	3383
2017		12.00	0.3	62.20	62.50	375		0	3008	3008
2018	0.3	13.00	0	49.20	49.20	650		0	2358	2358
2019		13.00	0	36.20	36.20	650		0	1708	1708
2020		13.00	0	23.20	23.20	650		0	1058	1058
2021		13.00	0	10.20	10.20	650		0	408	408
2022		10.20	0	0.00	0.00	408		0	0	0

Table 2
Chesapeake Pipe Replacement Program Progress

Mains (Miles)						Number of Services				
		Remaining	Remaining			Remaining	Remaining			
Year	Replaced Cast Iron	Replaced Bare Steel	Cast Iron at Year-End	Bare Steel at Year-End	Total Remaining	Replaced Cast Iron	Replaced Bare Steel	Cast Iron at Year-End	Bare Steel at Year-End	Total Remaining
Jul-12			0	152.00	152.00			0	762	762
2012		5.00	0	147.00	147.00	34		0	728	728
2013		3.00	0	144.00	144.00	139		0	589	589
2014		19.00	0	125.00	125.00	47		0	542	542
2015		34.00	0	91.00	91.00	284		0	258	258
2016		25.10	0	65.90	65.90	-81		0	339	339 **
2017		24.00	0	41.90	41.90	95		0	244	244
2018		9.00	0	32.90	32.90	52		0	192	192
2019		9.00	0	23.90	23.90	52		0	140	140
2020		9.00	0	14.90	14.90	52		0	88	88
2021		9.00	0	5.90	5.90	52		0	36	36
2022		5.90	0	0.00	0.00	36		0	0	0

** A total of 111 YTD bare steel services were replaced in 2016. Plus a correction to increase total services remaining by 192 (4th Qtr of 2016). The net equals -81.

Table 3
Fort Meade Pipe Replacement Program Progress

Mains (Miles)						Number of Services				
		Remaining	Remaining			Remaining	Remaining			
Year	Replaced Cast Iron	Replaced Steel	Cast Iron at Year-End	Steel at Year-End	Total Remaining	Replaced Cast Iron	Replaced Steel	Cast Iron at Year-End	Steel at Year-End	Total Remaining
Jan-16			0	0	0			0	250	250
2016		0	0	0	0	29		0	221	221
2017		0	0	0	0	56		0	165	165
2018		0	0	0	0	165		0	0	0

Florida Public Utilities Company
F.P.S.C. Gas Tariff
Third Revised Volume No. 1

~~Twelfth Eleventh~~ Revised Sheet No. 35.4
Cancels ~~Tenth Eleventh~~ Revised Sheet No. 35.4

BILLING ADJUSTMENTS

(Continued from Sheet No. 35.3)

Gas Reliability Infrastructure Program (GRIP)

Applicability

The bill for gas or transportation service supplied to a Customer in any Billing Period shall be adjusted as follows:

The GRIP factors for the period from the first billing cycle for January 2017~~8~~ through the last billing cycle for December 2017~~8~~ are as follows:

<u>Rate Class</u>	<u>Rates Per Therm</u>
Rate Schedule RS	\$0.34225 <u>.24395</u>
Rate Schedule GS-1	\$0.23903 <u>.16442</u>
Rate Schedule GS-2	\$0.23903 <u>.16442</u>
Rate Schedule GSTS-1	\$0.23903 <u>.16442</u>
Rate Schedule GSTS-2	\$0.23903 <u>.16442</u>
Rate Schedule LVS	\$0.12689 <u>.09644</u>
Rate Schedule LVTS	\$0.12689 <u>.09644</u>
Rate Schedule IS	\$0.11461 <u>.06494</u>
Rate Schedule ITS	\$0.11461 <u>.06494</u>
Rate Schedule GLS	\$0.49951 <u>.37921</u>
Rate Schedule GLSTS	\$0.49951 <u>.37921</u>
Rate Schedule NGV	\$0.23903 <u>.16442</u>
Rate Schedule NGVTS	\$0.23903 <u>.16442</u>

(Continued to Sheet No. 35.5)

Issued by: Jeffrey Householder, President

Effective:

Florida Division of Chesapeake Utilities Corporation
Original Volume No. 4

~~Sixth~~ Fifth Revised Sheet No. 105.1
Cancels ~~Fourth~~ Fifth Sheet No. 105.1

RATE SCHEDULES
MONTHLY RATE ADJUSTMENTS

Rate Schedule MRA

7. GAS REPLACEMENT INFRASTRUCTURE PROGRAM (GRIP):

Applicability:

All Customers receiving Transportation Service from the Company and are assigned to or have selected rate schedules FTS-A, FTS-B, FTS-1, FTS-2, FTS-2.1, FTS-3, FTS-3.1, FTS-4, FTS-5, FTS-6, FTS-7, FTS-8, FTS-9, FTS-10, FTS-11, FTS-12, and FTS-13.

The Usage Rate for Transportation Service to each applicable rate classification shall be adjusted by the following recovery factors. The recovery factors for all meters read for the period January 1, 2017 through December 31, 2017 for each rate classification are as follows:

<u>Rate Schedule</u>	<u>Classification of Service</u>	<u>Rate per therm</u>
FTS-A	< 130 therms	\$0.45319 <u>.55340</u>
FTS-B	> 130 therms up to 250 therms	\$0.45225 <u>.17785</u>
FTS-1	> 0 up to 500 therms	\$0.40371 <u>.11838</u>
FTS-2	> 500 therms up to 1,000 therms	\$0.41170 <u>.12603</u>
FTS-2.1	> 1,000 therms up to 2,500 therms	\$0.41406 <u>.12095</u>
FTS-3	> 2,500 therms up to 5,000 therms	\$0.04527 <u>.05359</u>
FTS-3.1	> 5,000 therms up to 10,000 therms	\$0.06029 <u>.06238</u>
FTS-4	> 10,000 therms up to 25,000 therms	\$0.07233 <u>.07404</u>
FTS-5	> 25,000 therms up to 50,000 therms	\$0.07490 <u>.07777</u>
FTS-6	> 50,000 therms up to 100,000 therms	\$0.05947 <u>.06234</u>
FTS-7	> 100,000 therms up to 200,000 therms	\$0.08142 <u>.07864</u>
FTS-8	> 200,000 therms up to 400,000 therms	\$0.06465 <u>.07326</u>
FTS-9	> 400,000 therms up to 700,000 therms	\$0.08359 <u>.10860</u>
FTS-10	> 700,000 therms up to 1,000,000 therms	\$0.09318 <u>.12848</u>
FTS-11	> 1,000,000 therms up to 2,500,000	\$0.05475 <u>.12575</u>
FTS-12	> 2,500,000 therms up to 12,500,000	\$0.03744 <u>.03277</u>
FTS-13	> 12,500,000 therms	N/A

(Continued to Sheet No. 105.2)

Issued by: Michael P. McMasters, President
Chesapeake Utilities Corporation

Effective:

Florida Division of Chesapeake Utilities Corporation ~~Sixth~~ Fifth Revised Sheet No. 105.2
Original Volume No. 4 Cancels ~~Fourth~~ Fifth Revised Sheet No. 105.2

RATE SCHEDULES
MONTHLY RATE ADJUSTMENTS

Rate Schedule MRA
(Continued from Sheet No. 105.1)

7. GAS INFRASTRUCTURE REPLACEMENT PROGRAM (GRIP) (Experimental):

Applicability:

All Customers, assigned to a TTS Shipper, receiving Transportation Service from the Company and are assigned to or have selected rate schedules FTS-A (Exp), FTS-B (Exp), FTS-1 (Exp), FTS-2 (Exp), FTS-2.1 (Exp), FTS-3 (Exp), and FTS-3.1 (Exp).

The Firm Transportation Charge for Transportation Service to each applicable rate classification shall be adjusted by the following recovery factors. The recovery factors for all meters read for the period January 1, 2017~~8~~ through December 31, 2017~~8~~ for each rate classification are as follows:

Consumer Rate Schedule	Rate per bill
FTS-A (Exp)	\$ 2.93 <u>3.39</u>
FTS-B (Exp)	\$ 1.74 <u>1.88</u>
FTS-1 (Exp)	\$ 1.70 <u>1.81</u>
FTS-2 (Exp)	\$ 6.68 <u>7.37</u>
FTS-2.1 (Exp)	\$ 13.09 <u>13.82</u>
FTS-3 (Exp)	\$ 15.66 <u>17.48</u>
FTS-3.1 (Exp)	\$ 36.01 <u>37.59</u>

(Continued to Sheet No. 105.3)

Issued by: Michael P. McMasters, President
Chesapeake Utilities Corporation

Effective:

Florida Public Utilities Company-Fort Meade
F.P.S.C. Gas Tariff
Original Volume No. 1

First Revised Sheet No. 64
Cancels Original Sheet No. 64

BILLING ADJUSTMENTS

Gas Reliability Infrastructure Program (GRIP)

Applicability

The bill for gas or transportation service supplied to a Customer in any Billing Period shall be adjusted as follows:

The GRIP factors for the period from the first billing cycle for January 2017~~8~~ through the last billing cycle for December 2017~~8~~ are as follows:

Rate Class	Rates Per Therm
Rate Schedule RS	\$0.36934 <u>.08198</u>
Rate Schedule GS-1	\$0.11672 <u>.02325</u>
Rate Schedule GS-2	\$0.11672 <u>.02325</u>
Rate Schedule GSTS-1	\$0.11672 <u>.02325</u>
Rate Schedule GSTS-2	\$0.11672 <u>.02325</u>
Rate Schedule LVS	\$0.00000
Rate Schedule LVTS	\$0.00000
Rate Schedule IS	\$0.00000
Rate Schedule ITS	\$0.00000
Rate Schedule GLS	\$0.00000
Rate Schedule GLSTS	\$0.00000
Rate Schedule NGV	\$0.00000
Rate Schedule NGVTS	\$0.00000

Issued by: Jeffrey Householder, President

Effective:

Item 15

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Ollila) *A.O. EJP 10/26/17 GS*
Office of the General Counsel (Brownless) *BBW JSC*

RE: Docket No. 20170192-GU – Petition for approval of 2016 true-up, projected 2017 true-up, and 2018 revenue requirements and surcharges associated with cast iron/bare steel pipe replacement rider, by Peoples Gas System.

AGENDA: 11/07/17 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 8-Month Effective Date: 5/1/18 (60-day suspension date waived by the utility)

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2017 OCT 26 AM 9:12
COMMISSION
CLERK

Case Background

On September 1, 2017, Peoples Gas System (Peoples or company) filed a petition for approval of its final 2016 true-up, projected 2017 true-up, and 2018 revenue requirements and surcharges associated with the cast iron/bare steel replacement rider (CI/BSR rider or rider). The rider was originally approved in Order No. PSC-12-0476-TRF-GU (2012 order) to recover the cost of accelerating the replacement of cast iron and bare steel distribution pipes through a surcharge on customers' bills.¹ Peoples' current surcharges were approved in Order No. PSC-16-0524-TRF-

¹ Order No. PSC-12-0476-TRF-GU, issued September 18, 2012, in Docket No. 110320-GU, *In re: Petition for approval of Cast Iron/Bare Steel Pipe Replacement Rider (Rider CI/BSR), by Peoples Gas System.*

GU.² In the 2012 order, the Commission found that “replacement of these types of pipelines is in the public interest to improve the safety of Florida’s natural gas infrastructure, and reduce the possibility of loss of life and destruction of property should an incident occur.”

The Commission approved a comprehensive settlement agreement between Peoples and the Office of Public Counsel (OPC) in Order No. PSC-17-0066-AS-GU.³ The settlement agreement addressed the company’s 2016 depreciation study, cost recovery associated with Peoples’ manufactured gas plant-related environmental liability, and the reduction of the bottom of Peoples’ authorized earning range. In addition, the settlement agreement added problematic plastic pipe (PPP) installed in the company’s distribution system to eligible replacements under the rider. PPP was manufactured before 1983 and has significant safety concerns. In certain areas, the PPP is interspersed with, or connected to, the cast iron/bare steel pipe that is being replaced under the rider. As provided for in the settlement agreement, PPP replacements are included in the calculation of the 2018 rider surcharges.

In its petition, Peoples waived the 60-day suspension deadline pursuant to Section 366.06(3), Florida Statutes (F.S.). Peoples filed its response to staff’s first data request on September 27, 2017. On October 18, 2017, Peoples filed a revised response to staff’s data request No. 1. OPC intervened in this docket on October 4, 2017, which was acknowledged by Order No. PSC-2017-0393-PCO-GU, issued October 17, 2017. The proposed tariff page is contained in Attachment B. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, F.S.

² Order No. PSC-16-0524-TRF-GU, issued November 21, 2016, in Docket No. 160201-GU, *In re: Petition for approval of 2015 true-up, projected 2016 true-up and 2017 revenue requirements and surcharges associated with cast iron/bare steel pipe replacement rider, by Peoples Gas System.*

³ Order No. PSC-17-0066-AS-GU, issued February 28, 2017, in Docket No. 160159-GU, *In re: Petition for approval of settlement agreement pertaining to Peoples Gas System’s 2016 depreciation study, environmental reserve account, problematic plastic pipe replacement, and authorized ROE.*

Discussion of Issues

Issue 1: Should the Commission approve Peoples' proposed rider surcharges for 2018?

Recommendation: Yes, the Commission should approve Peoples' proposed 2018 rider surcharge for each rate class commencing with bills rendered for meter readings taken on and after January 1, 2018. (Ollila)

Staff Analysis: The rider surcharges have been in effect since January 2013. In 2017, Peoples' cast iron and bare steel replacement activity has been occurring in Ocala, Sarasota, Jacksonville, Eustis, Orlando, St. Petersburg, Miami, and Tampa, with a larger concentration of replacements in the Tampa and St. Petersburg areas. PPP replacement activity started in May 2017 in Orlando, Lakeland, and Daytona. The original projected completion date for the CI/BSR replacement program was 2022 for mains and services. Peoples now expects to complete the replacement activity for mains in 2021 and services in 2022. Replacement of PPP is expected to continue until 2028.

Peoples continues to use a risk-based prioritization to determine the replacement order, which is primarily identified by the Distribution Integrity Management Program (DIMP). Other factors considered include leak incident rates, the pressure under which a pipeline is operating, areas of significant construction, and the pipeline's age. In its response to staff's data request, Peoples characterized its replacement approach as very proactive in removing all pipes identified by the Pipeline Hazardous Materials and Safety Administration (PHMSA) as being of concern. Peoples explained that it plans to secure additional contractors so that the replacement of cast iron and bare steel, as well as PPP, can be accelerated. According to Peoples, an accelerated replacement program is likely to result in better accessibility to contractors and supplies.

Attachment A contains tables which display the replacement progress and forecasts for CI/BSR (Table 1) and for PPP (Table 2). In addition, Peoples provided a third table which consolidates actual and projected CI/BSR and PPP miles replaced, investment, and revenue requirement for each year of the replacement program, both actual and forecast.

True-ups by Year

Peoples' calculations for the 2018 revenue requirement and surcharges include a final true-up for 2016, an actual/estimated true-up for 2017, and projected costs for 2018. Pursuant to the 2012 order, the capital expenditures for 2016 through 2018 exclude the first \$1 million of facility replacements each year, and are thus excluded from recovery. Peoples has included depreciation expense savings as discussed in the 2012 order; however, Peoples stated that it has not identified any operations and maintenance savings.

Final True-up for 2016

Peoples stated that the revenues collected for 2016 were \$4,703,679 compared to a revenue requirement of \$4,901,227, resulting in an under-recovery of \$197,548. Adding the 2015 under-recovery of \$98,762, the 2016 under-recovery of \$197,548, and interest of \$5,188 associated with any over- and under-recoveries, the resulting preliminary under-recovery is \$291,122. Order No. PSC-16-0205-AS-GU required Peoples to include a one-time credit of \$2,000,000 to

customers subject to the rider, resulting in an over-recovery of \$1,708,878 for the final 2016 true-up.⁴

Actual/Estimated 2017 True-up

Peoples provided actual revenues for January through July and forecast revenues for August through December of 2017, totaling \$4,750,300, compared to an actual/estimated revenue requirement of \$6,942,022, resulting in an under-recovery of \$2,191,722. Adding the 2016 over-recovery of \$1,708,878, the 2017 under-recovery of \$2,191,722, and interest of \$6,924, the resulting total 2017 true-up is an under-recovery of \$475,919.

Projected 2018 Costs

Peoples projects investment or capital expenditures of \$35,675,000 for the replacement of cast iron/bare steel infrastructure and PPP in 2018. As shown in Table 3 of Attachment A, this consists of the CI/BSR investment of \$22,850,000 and the PPP investment of \$12,825,000. This represents an increase of approximately \$16.4 million from the 2017 actual/estimated investment (\$19,246,093) and an increase of approximately \$22.3 million from final 2016 expenditures (\$13,331,026). The return on investment, depreciation expense (less savings), and property tax expense associated with that investment are \$10,174,749. After adding the total 2017 under-recovery of \$475,919, the total 2018 revenue requirement is \$10,650,669. Table 1-1 displays the 2018 revenue requirement calculation.

Table 1-1
2018 Revenue Requirement Calculation

2018 Projected Replacements	\$35,675,000
Return on Investment	\$7,277,347
Depreciation Expense (less savings)	\$1,806,515
Property Tax Expense	\$1,090,887
2018 Revenue Requirement	\$10,174,749
Plus 2017 Under-recovery	\$475,919
Total 2018 Revenue Requirement	\$10,650,669

Source: Exhibit C, page 1, of the Petition

Proposed Surcharges

As established in the 2012 order, the total 2018 revenue requirement is allocated to rate classes using the same methodology that was used for the allocation of mains and services in the cost of service study used in Peoples' most recent rate case. After calculating the percentage of total plant costs attributed to each rate class, the respective percentages were multiplied by the 2018 revenue requirement resulting in the revenue requirement by rate class. Dividing each rate class's revenue requirement by projected therm sales provides the rider surcharge for each rate class.

⁴ Order No. PSC-16-0205-AS-GU, issued May 10, 2016, in Docket No. 150259-GU, *In re: Initiation of show cause proceedings against Peoples Gas System for apparent violations of Sections 368.01 – 05, F.S., and Chapter 25-12, F.A.C.*

The proposed 2018 rider surcharge for residential customers is \$0.05285 per therm (compared to the current surcharge of \$0.02309 per therm). The monthly bill impact is \$1.06 for bills rendered for meter readings taken on and after January 1, 2018, for a residential customer who uses 20 therms. The proposed tariff page is provided in Attachment B.

Conclusion

Staff believes the calculation of the 2018 rider revenue requirement and the proposed rider surcharge for each rate class is reasonable and accurate. Therefore, staff recommends approval of Peoples' proposed 2018 rider surcharge for each rate class commencing with bills rendered for meter readings taken on and after January 1, 2018.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Brownless)

Staff Analysis: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

Table 1
Peoples' CI/BSR Replacement Program Progress

Year	Main Replacements					Service Replacements	
	Replaced Cast Iron (miles)	Replaced Bare Steel (miles)	Remaining Cast Iron at Year End (miles)	Remaining Bare Steel at Year End (miles)	Total Miles Remaining of CI/BS Mains	Replaced Number of Bare Steel Services	Total Number of Remaining Bare Steel Services
2012			100	354	454		14978
2013	13	38	87	316	403	907	14071
2014	2	18	85	298	383	7964	6107
2015	26	60	59	238	297	1019	5088
2016	15	35	44	203	247	1050	6963**
2017 (projected)	15	34	29	183*	212*	1078	5885
2018	10	80	19	103	122	1200	4685
2019	10	60	9	43	52	1200	3485
2020	9	31	0	12	12	1200	2285
2021	0	12	0	0	0	1200	1085
2022	0	0	0	0	0	1085	0

*Additional Bare Steel Mains identified in 2017 - Broward - 12 miles, Orlando - 1 mile and Jacksonville - 1 mile.

** In 2016, Peoples upgraded its asset classification system and changed from CIS to GIS. During this change additional bare and unprotected steel services lines were identified in Peoples operating system. This change resulted in a new total number remaining of 6963.

Table 2
Peoples' PPP Replacement Program Progress

	PPP (miles)	Total Remaining PPP Mains (miles)	Replaced Number of PPP Services	Total Number of Remaining PPP Services*
2016	0	551	0	-
2017	23	528	1800	-
2018	55	473	3600	-
2019	50	423	Not yet Determined**	-
2020	50	373	Not yet Determined**	-
2021	50	323	Not yet Determined**	-
2022	50	273	Not yet Determined**	-
2023	50	223	Not yet Determined**	-
2024	50	173	Not yet Determined**	-
2025	50	123	Not yet Determined**	-
2026	50	73	Not yet Determined**	-
2027	50	23	Not yet Determined**	-
2028	23	0	Not yet Determined**	-

* Peoples Gas is in the process of determining the total number of PPP service lines.

** This will be determined during the replacement year.

Table 3
Peoples' CI/BSR & PPP Investment and Revenue Requirement

	CI/BSR Miles Replaced	PPP Miles Replaced	CI/BSR Investment	PPP Investment	CI/BSR Revenue Requirement	PPP Revenue Requirement
2017	49	23	\$ 14,882,508	\$ 4,363,585	\$ 6,831,942	\$ 110,080
2018	90	55	\$ 22,850,000	\$ 12,825,000	\$ 8,966,298	\$ 1,208,451
2019	70	50	\$ 18,215,000	\$ 10,925,000	\$ 11,595,091	\$ 2,582,080
2020	40	50	\$ 10,254,500	\$ 11,198,125	\$ 13,340,116	\$ 3,799,743
2021	12	50	\$ 2,460,759	\$ 11,478,078	\$ 14,011,479	\$ 5,023,514
2022	0	50	\$ -	\$ 11,765,030	\$ 13,927,735	\$ 6,254,837
2023		50	\$ -	\$ 12,059,156	\$ 13,639,176	\$ 7,493,930
2024		50	\$ -	\$ 12,360,635	\$ 13,341,789	\$ 8,740,958
2025		50	\$ -	\$ 12,669,651	\$ 13,046,968	\$ 9,996,152
2026		50	\$ -	\$ 12,986,392	\$ 12,752,787	\$ 11,248,350
2027		50	\$ -	\$ 13,311,052	\$ 12,458,611	\$ 12,534,678
2028		23	\$ -	\$ 6,276,161	\$ 12,164,433	\$ 13,410,516

Peoples Gas System
a Division of Tampa Electric Company
7.806
Original Volume No. 3

~~Fifth~~ Sixth Revised Sheet No. 7.806
Cancels ~~Fourth~~ Fifth Revised Sheet No.

**CAST IRON/BARE STEEL REPLACEMENT RIDER
RIDER CI/BSR**

The monthly bill for Gas Service in any Billing Period shall be increased by the CI/BSR Surcharge determined in accordance with this Rider. CI/BSR Surcharges approved by the Commission for bills rendered for meter readings taken on or after January 1, 2017, are as follows with respect to Customers receiving Gas Service under the following rate schedules:

<u>Rate Schedule</u>	<u>CI/BSR Surcharge</u>
Residential/Residential Standby Generator	\$0.032000 <u>05285</u> per therm
Small General Service	\$0.014520 <u>03337</u> per therm
General Service – 1/ Commercial Standby Generator Service	\$0.008060 <u>01819</u> per therm
General Service – 2	\$0.007470 <u>01695</u> per therm
General Service – 3	\$0.006280 <u>01465</u> per therm
General Service – 4	\$0.004210 <u>00921</u> per therm
General Service – 5	\$0.002200 <u>00470</u> per therm
Commercial Street Lighting	\$0.010280 <u>02376</u> per therm
Natural Gas Vehicle Service	\$0.018250 <u>03789</u> per therm
Wholesale	\$0.002810 <u>00642</u> per therm

The CI/BSR Surcharges set forth above shall remain in effect until changed pursuant to an order of the Commission.

CI/BSR Surcharges shall be determined in accordance with the provisions of this Rider set forth below.

Definitions

For purposes of this Rider:

"Eligible Replacements" means the following Company plant investments that (i) do not increase revenues by directly connecting new customers to the plant asset, (ii) are in service and used and useful in providing utility service and (iii) were not included in the Company's rate base for purposes of determining the Company's base rates in its most recent general base rate proceeding:

Mains and service lines, as replacements for existing materials recognized/identified by the Pipeline Safety and Hazardous Materials Administration as being obsolete and that present a potential safety threat to operations and the general public, including cast iron, wrought iron, bare steel, and specific polyethylene/plastic facilities, and regulators and other pipeline system components the installation of which is required as a consequence of the replacement of the aforesaid facilities.

"CI/BSR Revenues" means the revenues produced through CI/BSR Surcharges, exclusive of revenues from all other rates and charges.

Issued By: T. J. Szelistowski, President
Issued On: ~~May 6, 2017~~

8

Effective: ~~February 7, 2017~~

Item 16

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Friedrich, Hudson) *MF SA PD GB*
Office of the General Counsel (DuVal) *MD JC*

RE: Docket No. 20170078-WU – Request for approval of an increase to convenience fees charged to customers, by Wildwood Water Company.

AGENDA: 11/07/17 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2017 OCT 26 AM 10:05
COMMISSION
CLERK

Case Background

Wildwood Water Company (Wildwood or utility) is a Class C water utility providing service to approximately 343 residential service customers in St. Johns County according to its 2016 Annual Report. Wildwood is located in the St. Johns River Water Management District, but outside the water use caution area. The Commission granted Wildwood Water Certificate No. 648-W, effective January 16, 2009.¹

On April 3, 2017, Wildwood filed a letter requesting to increase its convenience charges by \$1.00 to account for an increase in billing services by Automated Billing Services, Inc. (ABS). In addition to verbal conversations with the utility's Vice President, Mr. Gregory Mills, staff indicated to the utility, in a letter dated May 17, 2017, that this request must be filed as a limited proceeding or staff-assisted rate case (SARC) since it would affect the utility's base facility

¹Order No. PSC-10-0367-PAA-WU, issued June 7, 2010, in Docket No. 100011-WU, *In re: Application for grandfather certificate to operate water utility in St. Johns County by Wildwood Water Company.*

charge (BFC), a monthly recurring rate. Mr. Mills indicated to staff during a phone conversation that he was unaware when he filed his initial request that it would require a limited proceeding or SARC with a filing fee and was not interested in pursuing the utility's original request with either of these proceedings at this time. In addition, the utility also verbally indicated to staff that it was interested in the Commission evaluating its miscellaneous service charges. Staff indicated to the utility that its miscellaneous service charges could be evaluated in a tariff proceeding, in which no filing fee would be required. However, the utility would have to provide its request along with the appropriate cost justification required by Section 367.091, Florida Statutes (F.S.).

Staff has made numerous attempts to assist the utility with the appropriate proceedings to address the requests for the increased billing fee and miscellaneous service charges. However, the utility has taken no further action to pursue its requests. As provided in the docket file, staff has attempted to contact the utility via phone, mail, and email. To date, the utility has not filed the request for a limited proceeding or SARC required to process its request to increase its BFC, nor has the utility filed the necessary cost justification required to process its request regarding miscellaneous service charges.

This recommendation addresses the disposition of this docket due to the utility's failure to take any action. The Commission has jurisdiction pursuant to Chapter 367.011, F.S.

Discussion of Issues

Issue 1: Should this docket be closed?

Recommendation: Yes. This docket should be closed because no further action is required. (Friedrich, DuVal)

Staff Analysis: On April 3, 2017, the Commission received a letter from Mr. Gregory Mills, the Vice-President of Wildwood, requesting to increase the convenience fees charged to its customers by \$1.00 in order to cover increased billing services costs. In his letter, Mr. Mills explained that the utility's billing service, ABS, would be increasing its billing service rate by \$1.00 per customer on June 1, 2017. Additionally, Mr. Mills verbally requested for staff to evaluate Wildwood's current miscellaneous service charges.

Wildwood's current water rates consist of a BFC of \$34.53 and a four-tier inclining block rate structure based on usage. The utility's current BFC of \$34.53 includes a \$2.50 billing fee for the billing services provided by ABS to the utility.² Additionally, Wildwood's current miscellaneous service charges were established simultaneously with its grandfather certificate.

Staff sent a letter to Mr. Mills on May 17, 2017, outlining the utility's options for its requests. In its letter, staff explained that since the requested \$1.00 increase to its present \$2.50 billing fee would affect the utility's BFC, a monthly recurring rate, the utility would need to file this request as a limited proceeding or SARC and pay the appropriate filing fee. In its letter, staff also addressed the utility's request for its miscellaneous service charges to be evaluated by explaining that they could be evaluated through a tariff proceeding in which no filing fee is required. However, in order for staff to evaluate these charges, the utility would need to file cost justification required by Section 367.091, F.S. Staff asked the utility to respond to its letter on June 7, 2017, indicating how the utility would like to proceed and a written response was never received. However, the utility verbally expressed to staff that it was not interested in a limited proceeding or SARC at this time, but, it was still interested in the Commission evaluating its miscellaneous service charges. To date, the utility has not formally requested or provided cost justification for miscellaneous service charges.

As mentioned in the case background, staff has made several attempts to assist the utility with its requests, but the utility has taken no further action. Due to the utility's apparent lack of interest in pursuing its requests, staff issued a letter, dated October 2, 2017, requesting the utility's permission to close this docket so that the utility could take the appropriate time to reevaluate its filing options. Staff does not have the authority to close a docket administratively without the petitioner's consent. Staff requested a response by October 16, 2017. To date, the utility has not responded. Therefore, staff recommends that the docket should be closed. Closing this docket does not prevent the utility from filing a separate request to initiate a new docket for the evaluation of its miscellaneous service charges. Additionally, staff's recommendation to close this docket will not prevent the utility from filing a request for a limited proceeding or SARC at a

²Order No. PSC-10-0367-PAA-WU, issued June 7, 2010, in Docket No. 100011-WU, *In re: Application for grandfather certificate to operate water utility in St. Johns County by Wildwood Water Company.*

Date: October 26, 2017

later date. Staff recommends that this docket be closed because no further action is required. No filing fee has been paid by the utility, so no refund is necessary.

Item 19

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Bruce, Hudson) *SH*
Office of the General Counsel (DuVal) *PA*
MD TLT

RE: Docket No. 20130178-SU – Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company.

AGENDA: 11/07/17 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2017 OCT 26 AM 11:43
COMMISSION
CLERK

Case Background

Crooked Lake Park Sewerage Company (Crooked Lake or utility) is a Class C wastewater utility serving approximately 416 customers in Polk County. Water service is provided by Park Water Company, Inc. The utility's service area is comprised of two mobile home parks.

By Order No. PSC-15-0142-PAA-SU, issued March 26, 2015, the Commission approved Phase I and Phase II rates for Crooked Lake. The Phase II rates were to be implemented upon the utility's completion of four pro forma projects, one of which was a condition of the utility's Department of Environmental Protection (DEP) wastewater treatment plant (WWTP) operating permit, and staff's verification of completion. The utility was given 12 months from the effective date of the consummating order to complete the projects. The consummating order was issued on

April 20, 2015¹; therefore, the pro forma projects were to be completed by April 20, 2016. In addition, the utility was required to purchase commercial general liability insurance and provide proof of purchase and continued payment of the insurance premiums prior to the implementation of the Phase II rate increase.

On March 31, 2016, the utility requested an extension of approximately three months to complete the projects due to scheduling delays from subcontractors and emergency repair work in the service area. By Order No. PSC-16-0204-FOF-SU, issued May 19, 2016, in this docket, the utility was given until July 31, 2016, to complete the Phase II pro forma projects. In the event the utility did not meet its July 31, 2016 deadline, staff was given administrative authority to grant the utility an additional six months to complete the Phase II pro forma projects. Pursuant to that order, the utility has requested and been granted additional extensions through January 31, 2017, to complete the pro forma projects. The utility has provided documentation in support of two of the four pro forma projects. On August 30, 2017, the utility requested an extension until December 31, 2017, to complete the remaining Phase II pro forma projects and subsequently, on October 25, 2017, the utility requested an additional extension until March 31, 2018 to complete the projects.

This recommendation addresses the utility's request for an extension through March 31, 2018, to complete the remaining pro forma projects. The Commission has jurisdiction pursuant to Section 367.121, F.S.

¹ Order No. PSC-15-0154-CO-SU, issued April 20, 2015, in Docket No. 2013178-SU, *In re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company*.

Discussion of Issues

Issue 1: Should the Commission approve Crooked Lake's request for extension of time to complete the remaining Phase II pro forma projects?

Recommendation: Yes. The Commission should approve Crooked Lake's request for an extension of time to complete the remaining Phase II pro forma projects by March 31, 2018. Upon completion of the pro forma plant items, the utility should submit a copy of the final invoices and cancelled checks for the remaining Phase II pro forma projects and documentation that the general liability insurance is being maintained by April 30, 2018. (Bruce)

Staff Analysis: As discussed in the case background, pursuant to Order No. PSC-16-0204-FOF-SU, Crooked Lake was given an extension to complete the four pro forma projects by July 31, 2016, and provide documentation that the general liability insurance was renewed. In the event the utility did not complete the pro forma projects by the July 31, 2016 deadline, staff was given administrative authority to grant additional time.

On June 16, 2016, the utility requested a three-month extension to complete the projects; on June 30, 2016, staff granted the utility's request for an extension, which extended the completion deadline to October 31, 2016. On October 24, 2016, the utility requested another extension of time until January 31, 2017, to complete the pro forma projects. By letter dated November 7, 2016, staff granted the three-month extension and indicated that the pro forma projects should be completed by January 31, 2017.

The utility failed to provide the required documentation by the January 31, 2017 deadline and, on March 3, 2017, staff sent the utility a Notice of Noncompliance for failing to submit documentation to show the completion of the Phase II pro forma projects as required by Order No. PSC-16-0204-FOF-SU. The Notice of Noncompliance described the potential consequences of noncompliance pursuant to Section 367.161, F.S. On March 20, 2017, the utility responded to staff's Notice of Noncompliance indicating that one of the four projects, the project that was the subject of the DEP WWTP permit, had been completed. Following several attempts by staff to contact the utility, on June 19, 2017, staff sent a letter requesting that the utility provide documentation of the remaining three projects by June 30, 2017. The letter further indicated that, if the documentation was not received, staff would prepare a recommendation to have the Phase II rates adjusted to reflect only the pro forma costs that had been verified. On August 30, 2017, the utility provided documentation to confirm that a second project, the electrical control panel replacement, was completed in 2014 and requested that it be granted an extension through December 31, 2017, to complete the remaining Phase II pro forma projects. Subsequently, on October 25, 2017, the utility requested an additional extension through March 31, 2018.

Staff has reviewed the documentation related to the construction of the surge tank, digester tank, and sludge bed, which was a condition of the utility's DEP WWTP operating permit, as well as the replacement of the electrical control panel and believes the projects are completed. According to the utility, it is currently working on completing the remaining projects, mapping and cleaning the collection system and replacement of approximately 2,100 feet of 4" force main, and is very close to being completed. However, the utility requested an extension to allow for scheduling delays resulting from subcontractor labor shortage, weather delays, and

Date: October 26, 2017

emergency work to lines and manholes as well the impact that Hurricane Irma has had in the area. The utility further indicated that it had to re-direct its crews and revise schedules to fix various lines and emergency work in the service area. Staff believes the request for an extension of time to complete the construction is reasonable.

Based on the foregoing, staff recommends that the Commission should approve Crooked Lake's request for an extension of time to complete the remaining Phase II pro forma projects by March 31, 2018. Upon completion of the pro forma plant items, the utility should submit a copy of the final invoices and cancelled checks for the remaining Phase II pro forma projects and documentation that the general liability insurance is being maintained by April 30, 2018.

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open to allow staff time to verify that the Phase II pro forma projects have been completed, that the supporting documentation related to the pro forma projects and insurance have been provided, and the Phase II rates have been properly implemented. Once these actions are complete and verified by staff this docket should be closed administratively. (DuVal)

Staff Analysis: No. The docket should remain open to allow staff time to verify that the Phase II pro forma projects have been completed, that the supporting documentation related to the pro forma projects and insurance have been provided, and the Phase II rates have been properly implemented. Once these actions are complete and verified by staff this docket should be closed administratively.

Item 1:

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 26, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Sibley) *SH PAB*
Office of the General Counsel (Taylor) *WDT JSC*

RE: Docket No. 20170152-SU – Request for approval of a late payment charge in Volusia County, by North Peninsula Utilities Corporation.

AGENDA: 11/07/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

2017 OCT 26 AM 11:00
RECEIVED-FPSC
COMMISSION CLERK

Case Background

North Peninsula Utilities Corporation (NPUC or utility) is a Class B wastewater utility operating in Volusia County since 1977.¹ NPUC provides wastewater service to approximately 586 customers. The City of Ormond Beach provides water service to the area. NPUC's 2016 Annual Report lists operating revenues of \$231,238 and a net operating loss of \$2,399.

On July 11, 2017, the utility filed an application to add a late payment charge. The Commission considered the application at the September 7, 2017 Agenda Conference; following discussion with staff the Commission requested additional information and deferred the item to a later Agenda Conference. Staff received additional information from the utility on October 16, 2017.

¹ See Order No. 8116, issued December 22, 1977, in Docket No. 770595-S, *In Re: Application of Shore Utility Corporation for a Certificate to Operate a Sewer Utility in Volusia County, Florida*. Section 367.041, Florida Statutes.

Docket No. 20170152-SU

Date: October 26, 2017

This recommendation addresses the utility's request. The Commission has jurisdiction pursuant to Section 367.091(6), Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should NPUC's request to implement a late payment charge be approved?

Recommendation: Yes. NPUC's request to implement a \$6.77 late payment charge should be approved. The utility should file the revised tariff sheet and a proposed customer notice to reflect the Commission-approved charge. The approved charge should be effective for services rendered on or after the stamped approval date on the tariff sheet provided customers have received notice pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.). The utility should provide proof of noticing within 10 days of rendering the approved notice. (Sibley)

Staff Analysis: The utility requested a \$6.77 late payment charge to recover the cost of labor and supplies associated with processing late payment notices. The utility's request for a late payment charge was accompanied by its reasons for requesting the charge, as well as the cost justification required by Section 367.091(6), F.S. The goal of allowing late payment charges is two fold: first, it encourages customers to pay their bills on time, and second, if payments are not made on time, it ensures that the cost associated with collecting late payments are not passed on to the customers who do pay on time.²

The utility has a total of 586 customer accounts and approximately 12 percent of the customers do not pay by the due date each month. The utility indicated that during September 2017, approximately 61 percent of the overdue accounts were more than 90 days past due. Since this is a wastewater only utility, it is extremely costly and time consuming to discontinue wastewater service for late bills. Because the utility does not currently have an approved late payment charge, the utility's only recourse is to either discontinue the customer's wastewater service or file a property lien for the outstanding balance. The utility indicated that it files eight to ten liens per year for accounts that are excessively delinquent.

The utility included \$6.00 for labor associated with processing late payments. The late payment notices are processed by an employee of the affiliated management group, Peninsula Management Group (PMG), which operates the utility and provides the billing functions. PMG pays the billing employee a salary of \$35 per hour which includes all employment benefits. This employee is manager over the billing and collections for the utility, processing calls and messages from the office on weekdays and weekends, and coordination between the plant's operator, engineer, and the management group. PMG bills the utility approximately \$7,800 per month for the operation and management of the utility. The billing employee's hourly salary plus benefits is consistent with Commission practice. Within the past three years, the Commission has approved late payment charges based on salaries ranging from \$17.76 to \$39.00 per hour.³

² See Order No. PSC-01-0998-TRF-WU, issued April 23, 2001, in Docket No. 010232-WU, *In re: Request for approval of tariff filing to add "set rate" late fee to water tariff, by Lake Yale Treatment Associates, Inc. in Lake County.*

³ See Order No. PSC-14-0335-PAA-WS, issued June 30, 2014, in Docket No. 130243-WS, *In re: Application for staff-assisted rate case in Highlands County by Lake Placid Utilities Inc.*; PSC-2017-0361-FOF-WS, issued September 25, 2017, in Docket No. 20160101-WS, *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.*

The billing employee spends approximately 12 hours per month processing an average of 70 delinquent accounts. This equates to approximately 10 minutes to process a single late payment notice. The Commission has found that 10 to 15 minutes is an appropriate amount of time for a billing employee to process a single late payment.⁴

Over the past seven years, the Commission has approved late payment charges ranging from \$4.90 to \$7.15.⁵ Based on the salary and time spent per notice, NPUC calculated a labor cost of \$6.00. The utility is also requesting recovery of \$0.28 for supplies and \$0.49 for postage. The utility's cost justification for its requested late payment charge is shown on Table 1-1.

**Table 1-1
Late Payment Charge Cost Justification**

Activity	Cost
Labor	\$6.00
Supplies	0.28
Postage	0.49
Total Cost	<u>\$6.77</u>

Source: Utility's cost justification documentation

Based on the above, NPUC's request to implement a \$6.77 late payment charge should be approved. The utility should file the revised tariff sheets and a proposed customer notice to reflect the Commission-approved late payment charge. The approved charge should be effective for services rendered on or after the stamped approval date on the tariff sheet provided customers have received notice pursuant to Rule 25-30.475(1), F.A.C.

⁴ See Order Nos. PSC-16-0041-TRF-WU, in Docket Nos. 150215-WU, issued January 25, 2016, *In re: Request for approval of tariff amendment to include miscellaneous service charges for the Earlene and Ray Keen Subdivisions, the Ellison Park Subdivision and the Lake Region Paradise Island Subdivision in Polk County, by Keen Sales, Rentals and Utilities, Inc.*; PSC-15-0569-PAA-WS in Docket No. 140239-WS, issued December 16, 2015, *In re: Application for staff-assisted rate case in Polk County by Orchid Springs Development Corporation.*; PSC-16-0523-TRF-WU, in Docket No. 160023-WU, issued November 21, 2016, *In re: Application for transfer of majority organizational control of Sunny Shores Water Company, Inc., holder of Certificate No. 578- W in Manatee County, from Jack E. Mason to Jack E. Mason, II and Debbie A. Mason.*

⁵ See Order Nos. PSC-14-0105-TRF-WS, in Docket Nos. 130288-WS, issued February 20, 2014, *In re: Request for approval of late payment charge in Brevard County by Aquarina Utilities, Inc.*; PSC-15-0535-PAA-WU in Docket No. 20140217-WU, issued November 19, 2015, *In re: Application for staff-assisted rate case in Sumter County by Cedar Acres, Inc.*; PSC-15-0569-PAA-WS in Docket No. 20140239-WS, issued December 16, 2015.

Issue 2: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. Once these actions are complete, this docket should be closed administratively. (Taylor)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. Once these actions are complete, this docket should be closed administratively.