

Table of Contents  
Commission Conference Agenda  
August 7, 2018

1**	<b>Consent Agenda</b> .....	1
2**PAA	<b>Docket No. 20180004-GU</b> – Natural gas conservation cost recovery. ....	2
3**PAA	<b>Docket No. 20170253-WU</b> – Application for grandfather water certificate in Leon County by Lake Talquin Water Company, Inc. ....	3
4**PAA	<b>Docket No. 20180087-EI</b> – Complaint against Florida Power & Light Company regarding safety of transformers supplying power to six residential buildings in South Winds Condominium, by Manuel Blanco. ....	4
5**PAA	<b>Docket No. 20180109-EI</b> – Petition for initiation of formal proceedings for relief against Florida Power & Light Company regarding backbilling for alleged meter tampering and disconnection, by Terry A. Avera. ....	5
6**	<b>Docket No. 20180124-EQ</b> – Petition for declaratory statement concerning leasing of solar equipment, by Vivent Solar Developer, LLC. ....	6
7**PAA	<b>Docket No. 20170230-WU</b> – Application for staff-assisted rate case in Pasco County by Orange Land Utilities, LLC. ....	7
8**	<b>Docket No. 20180088-EI</b> – Petition for limited proceeding for approval of a smart meter opt-out tariff, by Duke Energy Florida, LLC. ....	11
9**PAA	<b>Docket No. 20180127-EI</b> – Petition for approval of temporary territorial variance, by Tampa Electric Company. ....	12
10**	<b>Docket No. 20180117-GU</b> – Petition for approval of tariff modifications for use of natural gas for gas heat pumps by customers, by Peoples Gas System. ....	13
11**PAA	<b>Docket No. 20170086-SU</b> – Investigation into the billing practices of K W Resort Utilities Corp. in Monroe County. ....	14
12	<b>Docket No. 20170141-SU</b> – Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp. ....	16

# 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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of Industry Development and Market Analysis (Deas, Wendel) *S.D. BMW 17 GH*  
Office of the General Counsel (Trice) *BT NT*

**RE:** Application for Certificate of Authority to Provide Telecommunications Service

**AGENDA:** 8/7/2018 - 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>
20180098-TX	Batchlink Inc.	8922

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.

# Item 2



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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of the General Counsel (Dziechciarz) *RD*  
Division of Economics (Coston) *WBC* *JSN* *TH*

**RE:** Docket No. 20180004-GU – Natural gas conservation cost recovery.

**AGENDA:** 08/07/18 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Clark

**CRITICAL DATES:** 09/26/18 (Petition Deemed Approved if Not Granted or Denied within 90 Days of Receipt pursuant to Section 120.542(8), Florida Statutes)

**SPECIAL INSTRUCTIONS:** None

---

### Case Background

Rule 25-17.015(1), Florida Administrative Code (F.A.C.), directs the Florida Public Service Commission (Commission) to set an annual evidentiary hearing in its continuing Energy Conservation Cost Recovery (ECCR) docket pursuant to Sections 366.80-366.83, Florida Statutes (F.S.), to allow public utilities to seek recovery of costs for energy conservation programs. An evidentiary hearing is set for November 5-7, 2018.

On June 28, 2018, Peoples Gas System (Peoples) filed a Petition for Waiver of Rule 25-17.015(1)(b), F.A.C., (Petition). Rule 25-17.015(1)(b), F.A.C., requires utilities to submit actual and estimated filings based upon eight months of actual costs and four months of projected costs. A Notice of Joinder to the Petition was filed July 2, 2018, by Florida Public Utilities Company

Date: July 26, 2018

(FPUC),<sup>1</sup> Florida Division of Chesapeake Utilities Corporation (Chesapeake), Florida Public Utilities Company-Fort Meade (Ft. Meade), and Florida Public Utilities Company-Indiantown Division (Indiantown). A Notice of Joinder to the Petition was also filed on July 3, 2018, by Florida City Gas (FCG); on July 5, 2018, by St. Joe Natural Gas Company (St. Joe); and on July 11, 2018, by Sebring Gas System, Inc. (Sebring).

Pursuant to Section 120.542(6), F.S., notice of the Petition was published in the Florida Administrative Register on July 13, 2018. To date, no comments were received. The time for filing comments expires on July 27, 2018. By Order No. PSC-2018-0244-PAA-EG, issued on May 10, 2018, in Docket No. 20180002-EG, the Commission granted a similar Petition for Waiver of Rule 25-17.015(1)(b), F.A.C., to Florida Power & Light Company, Duke Energy Florida, LLC, Tampa Electric Company, Gulf Power Company, and FPUC.<sup>2</sup>

This recommendation addresses the Petition and corresponding requests for joinder. The Commission has jurisdiction in this matter pursuant to Sections 120.542, 366.04, 366.05, and 366.06, F.S.

---

<sup>1</sup> FPUC-Gas, Company Code GU603.

<sup>2</sup> FPUC-Electric, Company Code EI803.



## Discussion of Issues

**Issue 1:** Should the Commission grant Peoples Gas System, Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company-Fort Meade, Florida Public Utilities Company-Indiantown Division, Florida City Gas, St. Joe Natural Gas Company, and Sebring Gas System's Petition for waiver of Rule 25-17.015(1)(b), Florida Administrative Code?

**Recommendation:** Yes. Staff recommends that the Commission grant the Petition for waiver of Rule 25-17.015(1)(b), F.A.C., requested by Peoples Gas System, Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company-Fort Meade, Florida Public Utilities Company-Indiantown Division, Florida City Gas, St. Joe Natural Gas Company, and Sebring Gas System, Inc. The waiver will allow the utilities to provide annual estimated/actual true-up filings showing six months actual data and six months of projected data for a period of two years to cover the August 2018 and August 2019 filings. (Dziechciarz, Coston)

### **Staff Analysis:**

#### **Petition**

As stated, Peoples, FPUC, Chesapeake, Ft. Meade, Indiantown, FGC, St. Joe, and Sebring requested a rule waiver of the requirements of Rule 25-17.015(1)(b), F.A.C. The rule requires the utilities to make actual and estimated filings based upon eight months of actual and four months of projected common costs, individual program costs, and any collected revenues, beginning on January 1, 2018 and ending on December 31, 2018. The utilities stated that the due date for the estimated/actual true-up filing of August 10, 2018, does not allow the companies to prepare their estimated/actual filings based on eight months of actual and four months of projected data because the filings are due before the expiration of the required eight month period. The utilities indicated that they can prepare their filings on the basis of six months of actual and six months of projected data. The utilities requested a waiver of Rule 25-17.015(1)(b), F.A.C., and permission to submit their filings based on six months of actual data and six months of projected data.

The utilities asserted that filings based on six months of actual and six months of projected data are a reasonable means of achieving the purpose of the statutes implemented by Rule 25-17.015(1)(b), F.A.C. The utilities contended that the impossibility of submitting their filings based on eight months of actual data and four months of projected data by the August 10, 2018 due date established in the Order Establishing Procedure, Order No. PSC-2018-0115-PCO-GU, issued March 1, 2018, creates a substantial hardship for each of them. The utilities further requested that the waiver be granted for a period of two years to cover the August 2018 filings and the August 2019 filings.

#### **Facts**

Rule 25-17.015, F.A.C., requires the Commission to conduct annual ECCR proceedings in November of each year. Rule 25-17.015(1)(b), F.A.C., requires that the utilities submit actual and estimated filings, based upon eight months of actual data and four months of projected data, to be used in the annual proceedings.



The Rule requires that actual costs and revenues should be calculated beginning January 1st of the year of the annual ECCR proceeding in which the utility is seeking cost recovery. As such, the typical actual true-up filing should cover the period of January 1st – August 31st, and the estimated true-up filing should cover the period of September 1st – December 31st.

### **Requirements of Section 120.542, F.S.**

Section 120.542(2), F.S., authorizes the Commission to grant variances or waivers from agency rules when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means and application of the rule would cause the person substantial hardship. As defined by Section 120.542(2), F.S., “substantial hardship” means a demonstrated economic, technological, legal, or other type of hardship.

### **Purpose of the Underlying Statutes**

Sections 366.80-366.83 and 403.519, F.S., are known collectively as the Florida Energy Efficiency and Conservation Act (FEECA). The purpose of FEECA is to utilize the most efficient and cost-effective demand-side renewable energy systems and conservation systems. Furthermore, FEECA requires the Commission to determine whether utilities’ energy conservation programs shall be approved for cost recovery.

In the Petition, the utilities asked for a waiver of the rule’s requirement for submission of eight months of actual and four months of projected data. Instead, the utilities offered to provide actual and estimated true-up filings that consist of six months of actual data, covering the period of January 1, 2018 – June 30, 2018, and six months of projected data, covering the period of July 1, 2018 – December 31, 2018, as well as the corresponding periods for the following year’s ECCR docket. Therefore, the utilities’ ECCR filings will continue to provide actual and estimated true-up information. The utilities assert that filings based on six months of actual data and six months of projected data are a reasonable means of achieving the purpose of Sections 366.80-366.83, F.S.

Staff believes that six months of actual data and six months of projected data will allow the Commission to determine the utilities’ appropriate recovery of costs for energy conservation programs during the annual ECCR proceeding in compliance with the purpose of FEECA. Furthermore, pursuant to Rule 25-17.015(1)(a), F.A.C., the actual common costs, individual program costs, and revenues for the period of January 1st – December 31st, will be submitted in the utilities’ annual true-up filing in the next year’s ECCR proceeding; this information provides the Commission with the ability to true-up the six months of actual and six months of projected data. Therefore, staff recommends that the utilities have demonstrated that the purpose of the underlying statutes will be achieved through other means by the individual utilities.

### **Substantial Hardship**

As stated, pursuant to Section 120.542(2), F.S., the petition must demonstrate that application of the rule would create a substantial hardship. Further, Section 120.542(2), F.S., defines substantial hardship as demonstrated economic, technological, legal, or other type of hardship to the person requesting the waiver.

In the Petition, the utilities assert that application of the rule would create a substantial hardship to them due to the impossibility of submitting their filings on the basis of eight months of actual



data and four months of projected data as required by the rule and by the August 10, 2018 due date set by the Order Establishing Procedure.

Staff believes that the application of Rule 25-17.015(1)(b), F.A.C., in the instant docket would create a substantial hardship for the utilities based on the unavailability of the financial information for the typical coverage periods for actual data to be gathered between January 1st – August 31st and estimated data for September 1st – December 31st, by August 10, 2018. Therefore, staff recommends that the utilities have demonstrated that application of the rule would create a substantial hardship under the current timeline as set forth in the current hearing schedule.

### **Conclusion**

Section 120.542, F.S., requires companies to demonstrate that the purpose of the underlying statute will be or has been achieved by other means by the companies and that application of the rule would create a substantial hardship. Staff recommends that the Commission find that the utilities have demonstrated that the purpose of the underlying statutes will be achieved by filing six months of actual data and six months of projected data. Staff further recommends that the utilities have demonstrated that application of Rule 25-17.015(1)(b), F.A.C., will create a substantial hardship to the utilities. Therefore, staff recommends that the Commission grant the utilities' Petition for Waiver of Rule 25-17.015(1)(b), F.A.C., to allow the utilities to provide annual estimated/actual true-up filings showing six months of actual data and six months of projected data for a period of two years to cover the August 2018 filings and the August 2019 filings.

Staff has initiated rulemaking to amend Rule 25-17.015(1)(b), F.A.C. On March 20, 2018, a Notice of Development of Rulemaking to amend Rule 25-17.015, F.A.C., was published in the Florida Administrative Register. The stated purpose and effect of the rule development is to streamline the utilities' filing requirements in the rule. The proposed rule revision seeks to make the ECCR filing dates less prescriptive, thereby improving the scheduling of the ECCR filings and subsequent hearing.

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, this docket should not be closed upon the issuance of a consummating order. The ECCR docket is ongoing and this docket should remain open for further Commission action. (Dziechciarz)

**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, this docket should not be closed upon the issuance of a consummating order. The ECCR docket is ongoing and this docket should remain open for further Commission action.

# 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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of the General Counsel (Mapp) *UCM JSC*  
Division of Engineering (M. Watts) *MT*

**RE:** Docket No. 20170253-WU – Application for grandfather water certificate in Leon County by Lake Talquin Water Company, Inc.

**AGENDA:** 08/07/18 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Polmann

**CRITICAL DATES:** 09/03/18 (Statutory Rule Waiver Deadline)

**SPECIAL INSTRUCTIONS:** None

---

### Case Background

On June 20, 2017, the Board of County Commissioners of Leon County (County) passed and adopted Resolution No. R17-12 (Resolution), transferring regulation of the privately-owned, for-profit water and wastewater utilities in Leon County to the Florida Public Service Commission (Commission). Effective upon the adoption of the Resolution, all non-exempt water and wastewater systems in the County became subject to the provisions of Chapter 367, Florida Statutes (F.S.). The Commission acknowledged the Resolution in Order No. PSC-2017-0357-FOF-WS.<sup>1</sup>

---

<sup>1</sup>Order No. PSC-2017-0357-FOF-WS, issued September 20, 2017, in Docket No. 20170171-WS, In re: Resolution of the Board of County Commissioners of Leon County declaring Leon County subject to the provisions of Section 367, Florida Statutes.



Lake Talquin Water Company, Inc. (Lake Talquin or Utility) consists of 4 water systems located within in Leon County. On November 30, 2017, Lake Talquin filed an application for a certificate under grandfather rights to provide water service in Leon County (application) pursuant to Section 367.171(2)(b), F.S., and Rule 25-30.035, Florida Administrative Code (F.A.C.). On June 4, 2018, Lake Talquin filed a petition seeking a variance or waiver of Rule 25-30.120, F.A.C., which requires water and wastewater utilities under Commission jurisdiction remit an annual regulatory assessment fee (RAF).

Pursuant to Section 120.542(6), F.S., notice of this Petition was published in the Florida Administrative Register on June 8, 2018. In accordance with Rule 28-104.003(1), F.A.C., interested persons were given 14 days after the publication of the notice to submit written comments. No written comments were received, and the time for such has expired.

This recommendation addresses Lake Talquin's petition for a variance or waiver of Rule 25-30.120, F.A.C. Lake Talquin's application for grandfather certificate will be addressed in a subsequent recommendation. The Commission has jurisdiction in this matter pursuant to Sections 120.542, 367.145, and 367.171, F.S.

## Discussion of Issues

**Issue 1:** Should the Commission grant Lake Talquin Water Company, Inc.'s request for variance or waiver of Rule 25-30.120, F.A.C.?

**Recommendation:** Yes, the Utility has demonstrated that the underlying purpose of the statute will be or has been achieved by other means, and that strict application of the rule would create a substantial hardship. Therefore, staff recommends that the Commission grant Lake Talquin's request for waiver of Rule 25-30.120, F.A.C., for a period of one year from the date of the Commission's vote, or until the Commission grants the Utility's grandfather certificate and rates are approved, whichever occurs first. (Mapp)

**Staff Analysis:** On June 4, 2018, Lake Talquin filed a petition seeking a waiver of Rule 25-30.120, F.A.C., which requires that Regulatory Assessment Fees (RAFs) be paid for any year during which a utility is subject to the Commission's jurisdiction as of December 31 of that year. The Utility requests the waiver or variance of Rule 25-30.120, F.A.C., until such time as the Utility is authorized to increase its rates. Rule 25-30.120(2), F.A.C., provides that "[t]he obligation to remit the regulatory assessment fees for any year shall apply to any utility that is subject to this Commission's jurisdiction on or before December 31 of that year or for any part of that year." The effect of this request would be to permanently waive any RAFs that would have been otherwise due for 2017 up until the application is considered by the Commission.

Section 120.542(2), F.S., authorizes the Commission to grant waivers or variances from agency rules where the petitioner subject to the rule has demonstrated that the purpose of the underlying statute will be or has been achieved by other means, and that a strict application of the rule would cause the applicant substantial hardship or would violate the principles of fairness. "Substantial hardship," as defined in this section, means demonstrated economic, technological, legal, or other hardship. A violation of the "principles of fairness" occurs when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

As acknowledged in Order No. PSC-2017-0357-FOF-WS,<sup>2</sup> issued September 20, 2017, the Board of County Commissioners of Leon County on June 20, 2017 passed and adopted Resolution No. R17-12, transferring regulation of the privately-owned, for profit water and wastewater utilities in the County to the Commission. Effective upon the adoption of the resolution, all non-exempt water and wastewater systems in the Leon County became subject to the provisions of Chapter 367, F.S.

On November 30, 2017, Lake Talquin filed its application for a grandfather certificate pursuant to Section 367.171(2), F.S. and Rule 25-30.035, F.A.C. Subsequently on June 4, 2018, Lake Talquin filed the instant petition seeking a variance or waiver of Rule 25-30.120, F.A.C. The underlying statutory provision pertaining to RAFs and Rule 25-30.120, F.A.C., are Sections 367.145(1) and (3), F.S., which state that:

---

<sup>2</sup> Id.

Date: July 26, 2018

(1) The commission shall set by rule a regulatory assessment fee that each utility must pay in accordance with s. 350.113(3);

....

(3) Fees collected by the commission pursuant to this section may only be used to cover the cost of regulating water and wastewater systems. Fees collected by the commission pursuant to chapters 364 and 366 may not be used to pay the cost of regulating water and wastewater systems.

The Commission's RAFs are not included in the Utility's current rates because Lake Talquin was not regulated by the Commission prior to June 2017. For that reason, the Utility argues it is placed at an unfair financial disadvantage due to its inability to collect those regulatory assessment fees in its rates.

The purpose of assessing RAFs is to defray the cost of utility regulation. The Utility contends that there have been minimal to no costs of regulating Lake Talquin under Chapter 367, F.S., absent the review of its grandfather application. The Utility also notes that it has paid the applicable filing fee of \$200 as required by Section 367.145(2), F.S., and Rule 25-30.020, F.A.C., for the processing of its grandfather filing. Additionally, the Commission has previously granted a waiver of RAFs for a similarly situated utility prior to its receipt of a grandfather certificate.<sup>3</sup>

Based on the foregoing analysis and the information provided within the Utility's petition, staff believes that Lake Talquin has met the requirements of Section 120.542, F.S., and has demonstrated that the purpose of the of the underlying statute will be or has been achieved by other means, because minimal regulation has been required at this point. Further, the strict application of Rule 25-30.120, F.A.C., would place a substantial hardship on the Utility by requiring the Utility to pay regulatory expenses for which it is not compensated through rates. Therefore, staff recommends that the Commission approve the Utility's requested waiver or variance of Rule 25-30.120, F.A.C., for a period of one year from the date of the Commission's vote, or until the Commission grants the Utility's grandfather certificate and rates are approved, whichever occurs first.

---

<sup>3</sup> Order No. PSC-2018-0075-PAA-WU, issued February 12, 2018, in Docket No. 20170155-WU, In re: Application for grandfather water certificate in Leon County and application for pass through increase of regulatory assessment fees, by Seminole Waterworks, Inc.

Date: July 26, 2018

**Issue 2:** 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, a consummating order should be issued. This docket should remain open pending the Commission's final decision regarding the Utility's application for grandfather water certificate and rates are approved.

**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. This docket should remain open pending the Commission's final decision regarding the Utility's application for grandfather water certificate and rates are approved.

# 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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of the General Counsel (Page) *PHP SML*  
Office of Consumer Assistance and Outreach (Plescow) *CM*  
Division of Engineering (Moses) *JD*

**RE:** Docket No. 20180087-EI – Complaint against Florida Power & Light Company regarding safety of transformers supplying power to six residential buildings in South Winds Condominium, by Manuel Blanco.

**AGENDA:** 08/07/18 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Fay

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

---

### Case Background

Section 366.03, Florida Statutes (F.S.), states that each public utility shall furnish to each person applying for service, reasonably sufficient, adequate, and efficient service. The Commission has jurisdiction as set forth in Section 366.04, F.S., to regulate and supervise each public utility with respect to its rates and service.

Rule 25-22.032, Florida Administrative Code (F.A.C.), implements Chapter 366, F.S., and establishes informal customer complaint procedures that are designed to address disputes, subject to the Commission's jurisdiction, that occur between regulated companies and individual customers. Pursuant to this rule, any customer of a Commission regulated company may file a complaint with the Commission's Office of Consumer Assistance & Outreach whenever the

customer has an unresolved dispute with the company regarding electric, gas, water and wastewater service.

On September 7, 2017, Manuel Blanco filed an informal complaint with the Commission against Florida Power & Light Company (FPL). In his complaint, Mr. Blanco states that he has concerns regarding the clearance distance and the safety of FPL's pad-mounted transformers in South Winds Condominium community, in particular, the transformer located near his unit.

On March 21, 2018, staff advised Mr. Blanco that his informal complaint had been reviewed. He was informed that based on this review, it did not appear that FPL had violated applicable statute, rule, company tariff or order of the Commission.

Mr. Blanco was also notified by Commission staff that he had an opportunity to file a petition for formal proceedings. On April 3, 2018, Mr. Blanco filed a petition for initiation of formal proceedings. In the formal complaint, Mr. Blanco claims that the transformer located near his unit and other transformers in the condominium community that are owned and operated by FPL do not meet FPL and Commission clearance and safety standards.

This recommendation addresses the appropriate disposition of Mr. Blanco's complaint against FPL. The Commission has jurisdiction over this matter pursuant to Section 366.04, F.S.

## Discussion of Issues

**Issue 1:** What is the appropriate disposition of Mr. Blanco's formal complaint?

**Recommendation:** Mr. Blanco's formal complaint should be denied. FPL did not violate any applicable statute, rule, standard, company tariff or order of the Commission in maintaining the transformers at issue in Mr. Blanco's complaint, including the transformer next to Mr. Blanco's unit at South Winds Condominium. (Page, Plescow, Moses)

**Staff Analysis:** Mr. Blanco's complaint concerns transformers by which FPL supplies electrical power to residential buildings at South Winds Condominium.<sup>1</sup> FPL supplies this energy to South Winds residents through one or two liquid-filled pad-mounted transformers for each building. Mr. Blanco alleges safety violations that FPL failed to meet the requirements of the 2012 edition of the National Electrical Safety Code for outdoor installations of liquid-filled transformers and failed to comply with its own 2017 Electric Service Standards. Mr. Blanco also alleges unsafe conditions, claiming that the transformers in South Winds Condominium may explode or ignite in standing water.

### Transformer Clearances

Staff believes that the regulations and guidelines cited by Mr. Blanco concern mandatory access clearances to be maintained by FPL customers who have transformers situated near their property. In this regard, Mr. Blanco cites FPL's Electric Service Standards (ESS).<sup>2</sup> The ESS is intended to furnish information often required by customers to receive FPL's electric service.<sup>3</sup> The ESS requires that FPL customers:

[M]aintain access to FPL to pad mounted equipment located on the Customer's property (eight feet of clearance from the door side and three feet of clearance from the other sides from items such as fences, shrubs and other obstructions are to be maintained by the Customer as shown in Fig. V-1. FPL will help plan the Customer's installation of fences, shrubs, etc., near FPL facilities such that they will not obstruct access or cause damage to FPL's facilities. Where adequate access to FPL facilities is maintained, faster service restoration is made possible in the event of a power interruption.)

The purpose of the clearances surrounding the transformer is for the performance of maintenance, repair, or replacement. FPL states that the clearances are there for ease of installation and operation by their crews and to have a safe area in which to work. FPL further indicates that pad-mounted transformers do not explode or electrify in water.

On September 26, 2017, Ms. Katrine Negrin Hernandez, FPL Engineering Lead, informed Mr. Blanco by e-mail that a field investigation determined that the clearance in front of his

---

<sup>1</sup> South Winds Condominium is located in Miami, Florida.

<sup>2</sup> Electric Service Standards for Overhead, Underground and Residential Subdivision Areas. Staff references the ESS dated February 13, 2017, Section V: Page 1 of 6.

<sup>3</sup> FPL states in the ESS that the ESS is subject to and subordinate in all respects to FPL's Tariff, as amended from time to time and approved by the Commission, the Florida Administrative Code as it pertains to publicly held utilities, and provisions of the current edition of the National Electrical Safety Code.



Date: July 26, 2018

transformer met the required clearance distance even though the clearance in the rear of the transformer was short of the required distance by only a few inches. Staff has also determined that the clearances for Mr. Blanco's transformer in South Winds Condominium meet mandatory clearance allowances.

Ms. Hernandez also explained:

- (1) Published clearances are mainly for restoration and installation purposes and do not affect the operation of the transformer;
- (2) FPL does not provide manufacturer information; however, all transformers are manufactured to comply with company specific standards and are inspected every 5 years; and
- (3) Pad-mounted transformer locations are fully negotiated and agreed upon. Prior to the development of new buildings and homes; customers requesting relocation of FPL's facilities will be responsible for the cost of relocation.

On November 8, 2017, Ms. Hernandez contacted Mr. Blanco and explained to him that in an effort to resolve his complaint, FPL agreed to replace the transformer and install a second concrete pad to raise the transformer level, if possible. On November 13, 2017, an FPL inspection showed that there was not enough extra service cable length to accommodate a second concrete transformer pad. For this reason, FPL could not add a second concrete pad. On December 15, 2017, FPL replaced the pad-mounted transformer next to Mr. Blanco's condominium unit with a new transformer. Staff recommends that the Commission find that FPL has not violated any applicable statute, rule, company tariff, or order of the Commission in maintaining its transformers.

### **Safety Standards**

Mr. Blanco also alleges in his complaint that FPL is in violation of safety standards. Without specific allegations, Mr. Blanco cites Section 366.04, F.S., which states that the Commission shall have exclusive jurisdiction to prescribe and enforce safety standards for transmission and distribution facilities of all public electric utilities. Section 366.04, F.S., provides that in adopting safety standards, the Commission shall, at a minimum:

- (a) Adopt the 1984 edition of the National Electrical Safety Code (ANSI C2) as initial standards; and
- (b) Adopt, after review, any new edition of the National Electrical Safety Code (ANSI C2).<sup>4</sup>

On November 7, 2017, FPL and Commission staff met with Mr. Blanco and condominium management at South Winds Condominium. Commission technical staff performed a complete safety inspection of all transformers in the condominium community and reported that there were

---

<sup>4</sup> Rule 25-6.0345, F.A.C., incorporates by reference the 2017 National Electrical Safety Code (NESC). Mr. Blanco cites the 2012 edition of the NESC which is now superseded by the 2017 NESC. The language in Part 1: Safety Rules for Electric Supply Stations, Rule 152 A. is identical in both the 2012 and 2017 editions.

Date: July 26, 2018

satisfactory conditions. The allegations made by Mr. Blanco that are based on a violation of safety standards have been fully addressed by FPL. On September 7, 2017, FPL explained to Mr. Blanco that a transformer that is flooded should cause the fuse to open and de-energize the facility. As stated above, FPL inspects all transformers every 5 years. Therefore, staff recommends that the Commission find that no safety standards specified in the National Electrical Safety Code have been violated.

**Conclusion**

Staff recommends that the Commission find that FPL did not violate any applicable statute, rule, standard, company tariff or order of the Commission in maintaining the transformers at issue in Mr. Blanco's complaint, including the transformer next to Mr. Blanco's unit at South Winds Condominium. Staff recommends that Mr. Blanco's formal complaint be denied.

**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, this docket should be closed upon issuance of a consummating order. (Page)

**Staff Analysis:** 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, this docket should be closed upon issuance of a consummating order.

# 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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of the General Counsel (Schrader, Crawford) *SC*  
Office of Consumer Assistance and Outreach (Hicks, Plescow) *JGhm*  
Division of Economics (Merryday) *hm* *CS* *PD*  
Division of Engineering (Graves, Salvador) *mw* *EJD*

**RE:** Docket No. 20180109-EI – Petition for initiation of formal proceedings for relief against Florida Power & Light Company regarding backbilling for alleged meter tampering and disconnection, by Terry A. Avera.

**AGENDA:** 08/07/18 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Clark

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

---

### Case Background

Section 366.03, Florida Statutes (F.S.), states that each public utility shall furnish to each person applying for service, reasonably sufficient, adequate, and efficient service. The Commission has jurisdiction as set forth in Section 366.04, F.S., to regulate and supervise each public utility with respect to its rates and service.

Rule 25-22.032, Florida Administrative Code (F.A.C.), implements Chapter 366, F.S., and establishes informal customer complaint procedures that are designed to address disputes, subject to the Commission's jurisdiction, that occur between regulated companies and individual customers. Pursuant to this rule, any customer of a Commission regulated company may file a

complaint with the Commission's Office of Consumer Assistance and Outreach whenever the customer has an unresolved dispute with the company regarding electric, gas, telephone, water, or wastewater service.

In October of 2017, Terry Avera filed informal complaint no. 1256510E with the Commission against Florida Power & Light Company (FPL). In his informal complaint, Mr. Avera stated that FPL had wrongfully accused him of meter tampering and improperly and excessively backbilled his account for unrecorded electric usage.

On April 12, 2018, staff advised Mr. Avera, through his attorney Frank L. Hollander, that his informal complaint and FPL's backbilling calculations had been reviewed and that staff had determined that Mr. Avera's account was fairly and reasonably backbilled. Staff also advised Mr. Avera that, based on staff's investigation, FPL did not appear to violate any statute, rule, its company tariff, or orders in the investigation of meter tampering or in the backbilling of electricity used by Mr. Avera for which he did not pay due to unauthorized conditions. Staff advised Mr. Hollander that Mr. Avera had an opportunity to file a petition for formal proceedings.

On April 30, 2018, Mr. Avera, through his attorney Mr. Hollander, filed a petition for initiation of formal proceedings pursuant to Rule 25-22.036, F.A.C. In the formal complaint, Mr. Avera claims that FPL after an inspection of Mr. Avera's property, "falsely claimed the inspection revealed illegal meter tampering with FPL's equipment (smart meter) and that the tampering caused the meter to improperly under-register the electricity that the location was utilizing" and as a consequence, was "immediately disconnected service and back-billed...for 5 years, \$10,205.55, plus investigation fees and a tamper penalty."<sup>1</sup> Mr. Avera claims that due to his sleep apnea condition,

[he] was constructively removed from his home in order for he [sic] and his family to obtain electricity elsewhere as necessitated to prevent Avera from dying of sleep apnea without the use of needed electricity-generated machinery and death by that machinery, forming deadly bacteria, only eliminated through employment of electricity denied Avera as constitutional rights, to life, property and the pursuit of happiness, as deprived by FPL as a monopolistic state agent.<sup>2</sup>

Mr. Avera seeks for the Commission to find that no tampering occurred with the meter, to order FPL to restore service to his property, and to award damages in excess of \$14 million.<sup>3</sup>

This recommendation addresses the appropriate disposition of Mr. Avera's complaint against FPL. The Commission has jurisdiction over this matter pursuant to Sections 366.04, F.S. The Commission does not have jurisdiction to consider claims for damages.<sup>4</sup>

---

<sup>1</sup> DN 03304-2018, Complaint of Mr. Avera, ¶ 29.

<sup>2</sup> *Id.* at ¶ 31.

<sup>3</sup> *Id.* at ¶ 35.

<sup>4</sup> See, *Southern Bell Telephone and Telegraph Company v. Mobile America Corporation, Inc.*, 291 So. 2d 199, 202 (Fla. 1974).

## Discussion of Issues

**Issue 1:** What is the appropriate disposition of Mr. Avera's formal complaint?

**Recommendation:** The appropriate disposition of Mr. Avera's formal complaint is to deny the complaint. Mr. Avera's account was properly billed in accordance with Commission statutes and rules and FPL's tariffs, in the amount of \$11,638.09. FPL did not violate any applicable statute, rule, company tariff or order of the Commission in the processing of Mr. Avera's account. In addition, the Commission lacks the subject matter jurisdiction to award money damages. Thus, the Commission cannot rule on Mr. Avera's claim for monetary damages. (Schrader)

### **Staff Analysis:**

Mr. Avera alleges that FPL unjustly backbilled him, and improperly disconnected his service for non-payment of such backbilling, for meter tampering. He also alleges monetary damages from FPL's unjust disconnection of his electric service. These allegations are discussed below.

### **Meter Tampering**

On September 2, 2003, FPL established an account for Mr. Avera at his residence. On April 14, 2017, an analytical test of the communication from meter ACD5693, which was originally installed at Mr. Avera's residence on May 18, 2010, revealed an isolated outage for approximately 9 minutes and 15 seconds on September 20, 2011.<sup>5</sup> The analytical test showed that Mr. Avera's residence experienced a loss of power, while no other premises served by the same transformer experienced an outage. This isolated outage was followed by a significant reduction in metered average daily kWh (kilowatt-hour) consumption (see graph 1.1 provided by FPL).<sup>6</sup> After replacement of the meter on April 26, 2017, metered consumption significantly increased at Mr. Avera's residence.<sup>7</sup>

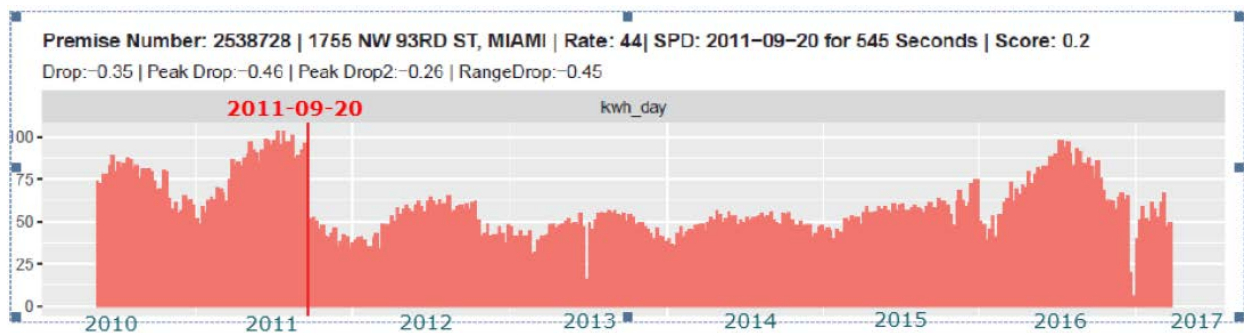
---

<sup>5</sup> FPL states that its "Revenue Protection Department continuously refines and develops new analytic tests to better identify potential theft conditions in the field. Leveraging data from smart meters and analytic tools, a new algorithm was developed in 2017, which generated the lead to investigate a possible unauthorized condition at Mr. Avera's residence." See DN 04404-2018, FPL's response to Staff's First Data Request, ¶ 7.a.

<sup>6</sup> DN 04404-2018, FPL's Response to Staff's First Data Request, ¶ 7.b.

<sup>7</sup> See Attachment A to this recommendation. Mr. Avera claims that "based on personal knowledge and consultation with an expert, the increase in consumption was due to the meter not being grounded. Also during this time Mr. Avera's sons grew older and their consumption increased. Finally the effectiveness of the disconnect boot (DM) became less as it deteriorated overtime." DN 04406-2018, Avera's Response to Staff's First Data Request ¶ 1.

**Graph 1.1**  
**Average Metered Daily kWh Consumption at Mr. Avera's Residence**



On April 26, 2017, an FPL meter electrician visited Mr. Avera's residence and documented that the outer meter enclosure seal was missing, the inner meter seal was intact, there was a wire which the electrician initially coded as an unauthorized lineside tap,<sup>8</sup> and that a plastic disconnect (DM) boot<sup>9</sup> was on the meter.

FPL removed meter ACD5693 and installed a new meter, ACD5262. According to FPL, the electrician subsequently sent the DM boot, piece of wire, and meter ACD5693 to FPL's Meter Technology Center. However, the meter electrician failed to take any photographs of meter ACD5693 in an unauthorized condition in the field.<sup>10</sup> FPL did, however, provide a photo of the removed meter, along with the wire, to Commission staff (see Attachment B to this recommendation). However, by letter filed July 17, 2018, Mr. Avera's counsel contended that the affidavit photo was not taken at the time and in the manner attested to by FPL.<sup>11</sup>

Mr. Avera contends that, upon the arrival of the meter electrician on April 26, 2017, the outer meter enclosure seal was, in fact, intact and had to be cut open by the electrician. Mr. Avera also states that the electrician made no mention of a lineside tap, and if the electrician had witnessed such a condition, then law enforcement would have been called to file a report.<sup>12</sup> Mr. Avera also

<sup>8</sup> A lineside tap is a wire or cable coming from the customer's main panel or a particular appliance, spliced into the lineside cable before the meter, or installed into the lineside lug in the meter enclosure. In some cases, the customer's existing load cable has been rerouted directly to the lineside lug. A jumper, on the other hand, is a wire or other conductor that is attached to both the line side and load side meter blocks for the purpose of allowing electricity to flow to the premise without registering on the meter. FPL later found the wire at Mr. Avera's residence to be a jumper, not a lineside tap (see subsection entitled "Subsequent Meter Tests," below).

<sup>9</sup> Disconnect boots are used by electric utilities to safely isolate a meter temporarily from the electrical service while keeping the meter in place. They act as insulating sheaths, temporarily disconnecting the blades of the meter from the receiving socket, when interruption of the electrical service is desired.

<sup>10</sup> See DN 04404-2018, FPL's Response to Staff's First Data Request, ¶ 4.c.

<sup>11</sup> See DN 04714-2018.

<sup>12</sup> Mr. Avera states that the meter electrician told him "that if the meter was found to be in an unauthorized condition he would have had no choice but to call the police and have a police report filed as a crime by the meter tenant Mr. Avera. The inspector specified the DM was not an unauthorized condition in that it was inserted into the wall by FPL itself when the prior owner occupied the house." See DN 04406-2018, Avera's Response to Staff's First Data Request, ¶ 2.



Date: July 26, 2018

states that “it was FPL who inserted the DM boot when the meter was rented by the prior owner years earlier. The DM disconnect boot was inherited.”<sup>13</sup>

### **Backbilling**

Section 366.03, F.S., provides that all rates and charges made or received by any public utility for service rendered by it and each rule and regulation of such public utility must be fair and reasonable. Rule 25-6.104, F.A.C., authorizes electric utilities to backbill the customer for a reasonable estimate of the electricity consumed, but not metered, due to meter tampering or fraudulent use.

FPL’s tariff sets forth its fees, services, and policies as approved by the Commission. FPL’s Fourth Revised Tariff Sheet No. 6.061, Section 8.3, Tampering with Meters, states:

Title to meters and metering equipment shall be and remain in the Company. Unauthorized connections to, or tampering with the Company’s meter or meters, or meter seals, or indications or evidence thereof, subjects the Customer to immediate discontinuance of service, prosecution under the laws of Florida, adjustment of prior bills for services rendered, a tampering penalty of \$200 for residential and non-demand commercial customers and \$1,000 for all other customers, and reimbursement to the Company for all extra expenses incurred on this account..<sup>14</sup>

On June 15, 2017, FPL tested meter ACD5693 with the DM boot present, but without the provided piece of wire, per FPL’s code “96” protocol for a lineside tap. FPL states that its test board does not recognize a meter with a single boot, since the test board only sees the 120 volts from one side of the meter and needs 240 volts to properly test a meter, which the plastic DM boot prevented. Because of this, the meter test results defaulted to zero.<sup>15</sup>

The backbilling was calculated by FPL using the kWh use from the new meter and the Seasonal Average methodology. FPL used “the actual usage recorded by the meter for the partial month of May 2017, after the condition was corrected on April 26, 2017, and actual usage for the months of June and July 2017, as data points, to calculate the Average of Total Yearly kWh.”<sup>16</sup> FPL further stated that “the average yearly total of kWh by the specific monthly seasonal average percentage of usage to determine the estimated usage for each month in the year. The original billed kWh is subtracted from the estimated monthly kWh, leaving the additional billed kWh.”<sup>17</sup> Attachment A to this recommendation shows FPL’s calculations used to backbill Mr. Avera’s account. Given that Mr. Avera established service in 2003, that meter ACD5693 was installed at his residence in 2010, and that the isolated outage and drop in metered consumption occurred in September of 2011, FPL classified the unauthorized meter condition as non-inherited.

---

<sup>13</sup> *Id.*

<sup>14</sup> Commission rules also authorize the refusal or discontinuance of electric service “without notice in the event of tampering with meters or other facilities furnished and owned by the utility” and “without notice in the event of unauthorized or fraudulent use of service. Rule 25-6.105(5)(i-j), F.A.C.

<sup>15</sup> DN 04667-2018, Affidavit of Alex Urquiaga ¶ 5.

<sup>16</sup> DN 04404-2018, FPL’s Response to Staff’s First Data Request, ¶ 4.d.

<sup>17</sup> *Id.*

Date: July 26, 2018

On August 28, 2017, FPL backbilled Mr. Avera for \$10,746.21, which included investigative charges of \$540.66, using this seasonal average methodology. FPL also added a tampering penalty of \$200.00, as authorized by its tariff. When payment was not timely made, FPL disconnected electric service to Mr. Avera's residence on August 31, 2017, having provided notice pursuant to Rule 25-6.105, F.A.C. Upon subsequent discussion with Mr. Avera, FPL offered to reconnect service for an initial payment of \$8,200 and establish a payment arrangement for the remaining backbill balance.

Mr. Avera later contacted FPL and requested to establish service in another family member's name. Then, on September 5, 2017, Mr. Avera contacted FPL requesting service to be reconnected after an initial payment of \$600; however, FPL indicated to him that it still required an initial payment of \$8,200. That same day, Mr. Avera requested via FPL's website to close the account. On September 6, 2017, a refusal of service letter was mailed to Mr. Avera's relative as that relative's driver's license was registered to Mr. Avera's address during the time that Mr. Avera incurred the debt with FPL.<sup>18</sup>

On September 15, 2017, with no payment received from Mr. Avera or an authorization to reconnect the service, FPL closed Mr. Avera's account effective to August 31, 2017. FPL issued a final bill statement to Mr. Avera for \$11,638.09, which consisted of current charges of \$240.94, backbilling charges of \$10,946.21, and past due balance of \$450.94.

On October 2, 2017, Mr. Avera contacted Commission staff, contending that a judge had ordered that all charges be dismissed and requested service be reconnected as soon as possible; his call was subsequently warm transferred to FPL. On October 3, 2017, Mr. Avera contacted the Commission and stated that he had faxed the court documents to FPL but service was not reconnected; he was again warm transferred to FPL. FPL stated that he was told that FPL's attorney reviewed the faxed documents and the attorney confirmed that Mr. Avera's complaint was dismissed, not the backbill charges, and that the judge referred Mr. Avera to the Commission, which would have the proper jurisdiction over his complaint. Commission staff confirmed that this case was dismissed;<sup>19</sup> however, the matter is pending appeal in the Circuit Court Appellate Division of the Eleventh Judicial Circuit for Miami-Dade County.<sup>20</sup>

Since the filing of Mr. Avera's informal complaint, FPL has offered additional payment arrangements to Mr. Avera. FPL's most recent proposal, on October 17, 2017, was an initial payment from Mr. Avera of \$2,000, a payment of \$691.88 for the final bill balance, and the establishment of a new account in his name with payment of a deposit required before service can be reconnected. Mr. Avera declined this and stated that he had obtained legal representation and that he found many examples online where FPL had removed all charges. Given this, he

---

<sup>18</sup> Pursuant to Rule 25-6.105(8)(a), F.A.C., delinquency in payment for service by a previous occupant of the premises shall not constitute sufficient cause for refusal or discontinuance of service to an applicant or customer unless the current applicant or customer occupied the premises at the time the delinquency occurred and the previous customer continues to occupy the premises and such previous customer shall benefit from such service.

<sup>19</sup> Order of Dismissal, *Terry A Avera v. FPL Florida Power Light*, No. 2017014730-CC-05 (Fla. Miami-Dade Cty. Ct. 2017)

<sup>20</sup> See *Avera v. Florida Power & Light Co.*, 2017 WL 6032562, at \*1 (Fla. 3d DCA Nov. 21, 2017).

Date: July 26, 2018

stated that his attorney would petition the Commission to require all charges be removed and his service reconnected.

### **Subsequent Meter Tests**

On November 7, 2017, after further inspection of the evidence, FPL determined that the meter electrician “incorrectly populated the ticket with an unauthorized condition code of “96,” denoting that a lineside tap was present” and that the meter electrician confused a jumper for a lineside tap.”<sup>21</sup> FPL stated that the condition should have been documented with code “63” that would indicate that a single jumper was present with the DM boot. While a lineside tap and a jumper are similar methods of diversion, each requires a different testing protocol. FPL subsequently retested Meter ACD5693 with the proper protocol for a jumper (i.e. code “63”), with the unauthorized jumper and DM boot in place, and the meter registered a weighted average (WA) of 49.91 percent. The “as left” test (i.e., with the meter repaired to remove the unauthorized condition) registered a WA of 99.89 percent. Given this result, FPL considered adjusting the backbill by using the test results of 49.91 percent; however, the revised billing would have resulted in an additional 13,489 kWh of usage being billed to Mr. Avera over what he had been billed based on a seasonal average methodology.

Mr. Avera states that at the November 7, 2017 testing the locked box containing the meter did not contain any kind of wire that would have been used for a lineside tap or jumper.<sup>22</sup> He also states that the test of a jumper conducted at this time was merely “recreated” and did not use any piece of wire obtained in the field from Mr. Avera’s residence.<sup>23</sup>

On February 26, 2018, FPL and Commission staff conducted witnessed meter tests of meters ACD5693 and ACD5262. With the DM boot in place as found, according to the meter electrician, FPL’s meter test revealed that meter ACD5693 was registering WA 0.00 percent. Commission staff was unable to test with boot in place due to limitations of the Commission testing equipment. Performing such a test would have damaged the Commission testing equipment.<sup>24</sup> Without the tampering condition in place, meter ACD5693 registered WA 99.88 percent upon testing by FPL, and 99.92 percent upon testing by Commission staff. Meter ACD5262 registered WA 100.00 percent upon testing by FPL, and 99.97 percent upon testing by Commission staff.

Staff believes that FPL should have better documented the condition of meter ACD 5693 in the field at Mr. Avera’s residence and that FPL did make an initial error in coding the meter’s unauthorized condition in the field. However, Mr. Avera’s consumption history (see graph 1.1 above and Appendix A attached to this recommendation), along with the preponderance of evidence including the Commission staff-witnessed tests of meters ACD5693 and ACD5262, demonstrates that Mr. Avera benefited from unauthorized conditions at his meter by paying less for electricity than he would have with a properly working meter without a jumper. Staff believes

---

<sup>21</sup> DN 04667-2018, Affidavit of Alex Urquiaga ¶ 3.

<sup>22</sup> DN 04714-2018, Avera Response to Affidavit of Alex Urquiaga pgs. 3-4. However, FPL stated that it did have the wire, and the wire was stored in a testing technician’s desk at FPL’s Meter Technology Center after the November 7, 2017 test of meter ACD 5693. See DN 04667-2018, Affidavit of Alex Urquiaga ¶ 14.

<sup>23</sup> Avera Response to Affidavit of Alex Urquiaga pg. 2.

<sup>24</sup> See Affidavit of Alex Urquiaga ¶ 13.

Date: July 26, 2018

that Mr. Avera is responsible for payment of a reasonable estimate of the electricity used, but not originally billed, and that FPL may also recover the costs of its investigation of the meter tampering.

Staff reviewed FPL's backbilling calculations and determined that Mr. Avera's account was fairly and reasonably backbilled. Staff believes that FPL has violated no statute, rule, company tariff, or orders in the investigation of meter tampering or in the backbilling of electricity used by Mr. Avera for which he did not pay due to unauthorized conditions.

### **Claim for Damages**

The Commission lacks the subject matter jurisdiction to award monetary damages. Thus, the Commission cannot rule on Mr. Avera's claim for monetary damages. To seek such relief he must file such a claim in a court of appropriate jurisdiction.<sup>25</sup>

### **Conclusion**

The appropriate disposition of Mr. Avera's formal complaint is to deny the complaint. Mr. Avera's account was properly billed in accordance with Commission statutes, rules, orders, and FPL's tariffs, in the amount of \$11,638.09 (consisting of current charges of \$240.94, backbilling charges of \$10,946.21, and past due balance of \$450.94). FPL did not violate any applicable statute, rule, company tariff or order of the Commission in the handling of Mr. Avera's account. In addition, the Commission lacks the subject matter jurisdiction to award monetary damages. Thus, the Commission cannot rule on Mr. Avera's claim for monetary damages.

---

<sup>25</sup> See Order No. PSC-08-0380-PCO-EI, issue June 9, 2008 in Docket 080039-EI, In re: Complaint of Sallijo A. Freeman Against Florida Power & Light Co. for Violation of Rule 25-6.105, at p. 4. See also Southern Bell Telephone and Telegraph Company v. Mobile America Corporation, Inc., 291 So. 2d 199, 202 (Fla. 1974) and Order No. PSC-99-1054-FOF-EI, issued May 24, 1999, in Docket No. 981923-EI, In re: Complaint and petition of John Charles Heekin against Florida Power & Light Company.

Date: July 26, 2018

**Issue 2:** 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. (Schrader)

**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, this docket should be closed upon the issuance of a consummating order.

Date: July 26, 2018

### Attachment A: FPL's Calculation of backbilling of Mr. Avera<sup>26</sup>

Florida Power & Light Company  
Docket No. 20180109-EI  
Staff's First Data Request No. 4 c  
Attachment No. 1

49283-70115 85  
TERRY A AVERA  
1755 NW 93rd ST  
MIAMI, FL 33147

Month	Year	KWH	%	Yearly	Remarks
July	2017	4130	11.27	36646	4130/11.27% = 36646
June	2017	3547	9.63	36833	3547/9.63% = 36833
May	2017	2071	8.02	40773	projected: kWh from 4/26 to 5/15 = 2071, 2071/19 days = 109 kWh/day 109 * 30 days = 3270/8.02% = Total Yearly kWh use of 40773.
				<b>114,252</b>	114,252 kWh/3 years = Average of Total Yearly kWh use of 38084

Service Date	# of Days	KWH As-Billed	Seasonal Average %	KWH Re-Billed	Remarks
05/15/17	32	2885	8.02%	3395	38084 * 8.02% = 3054 / 30 = 101.81 * 13 days (4/13 to 4/26) = 1324. 1324 + 2071 (4/26 to 5/15) = 3395
04/13/17	30	1649	7.53%	2868	38084 * 7.53% = 2868
03/14/17	29	1723	6.24%	2376	38084 * 6.24% = 2376
02/13/17	31	1727	5.23%	1992	38084 * 5.23% = 1992
01/13/17	31	1038	7.29%	2776	38084 * 7.29% = 2776
12/13/16	31	1953	7.07%	2693	38084 * 7.07% = 2693
11/12/16	29	1892	7.00%	2666	38084 * 7.00% = 2666
10/14/16	29	2363	9.10%	3466	38084 * 9.10% = 3466
09/15/16	30	2632	10.60%	4037	38084 * 10.60% = 4037
08/16/16	32	2911	11.04%	4204	38084 * 11.04% = 4204
07/15/16	31	2858	11.27%	4292	38084 * 11.27% = 4292
06/14/16	32	2619	9.63%	3667	38084 * 9.63% = 3667
05/13/16	29	2154	8.02%	3054	38084 * 8.02% = 3054
04/14/16	30	2042	7.53%	2868	38084 * 7.53% = 2868
03/15/16	32	1832	6.24%	2376	38084 * 6.24% = 2376
02/12/16	29	1317	5.23%	1992	38084 * 5.23% = 1992
01/14/16	31	2041	7.29%	2776	38084 * 7.29% = 2776
12/14/15	32	2006	7.53%	2868	38084 * 7.53% = 2868
11/12/15	29	1606	8.36%	3184	38084 * 8.36% = 3184
10/14/15	29	1753	8.85%	3370	38084 * 8.85% = 3370
09/15/15	32	1867	10.13%	3858	38084 * 10.13% = 3858
08/14/15	30	1748	10.44%	3976	38084 * 10.44% = 3976
07/15/15	30	1771	10.60%	4037	38084 * 10.60% = 4037
06/15/15	32	1832	9.45%	3599	38084 * 9.45% = 3599
05/14/15	30	1693	8.70%	3313	38084 * 8.70% = 3313
04/14/15	29	1511	7.69%	2929	38084 * 7.69% = 2929
03/16/15	31	1520	6.39%	2434	38084 * 6.39% = 2434
02/13/15	30	1313	5.26%	2003	38084 * 5.26% = 2003
01/14/15	33	1496	6.60%	2514	38084 * 6.60% = 2514
12/12/14	29	1377	6.50%	2475	38084 * 6.50% = 2475
11/13/14	30	1493	7.29%	2776	38084 * 7.29% = 2776
10/14/14	29	1514	9.16%	3488	38084 * 9.16% = 3488
09/15/14	32	1703	10.95%	4170	38084 * 10.95% = 4170
08/14/14	30	1582	10.67%	4064	38084 * 10.67% = 4064
07/15/14	32	1620	9.86%	3755	38084 * 9.86% = 3755
06/13/14	30	1589	9.28%	3534	38084 * 9.28% = 3534
05/14/14	30	1598	9.04%	3443	38084 * 9.04% = 3443
04/14/14	31	1486	7.20%	2742	38084 * 7.20% = 2742
03/14/14	28	1254	6.52%	2483	38084 * 6.52% = 2483
02/14/14	30	1214	6.27%	2388	38084 * 6.27% = 2388
01/15/14	33	1363	7.25%	2761	38084 * 7.25% = 2761
12/13/13	30	1309	7.45%	2837	38084 * 7.45% = 2837
11/13/13	29	1444	8.17%	3111	38084 * 8.17% = 3111
10/15/13	29	1537	9.26%	3527	38084 * 9.26% = 3527
09/16/13	33	1840	10.74%	4090	38084 * 10.74% = 4090
08/14/13	30	1563	10.74%	4090	38084 * 10.74% = 4090

1/2

<sup>26</sup> Source: FPL's Response to Staff's First Data Request, pgs. 7-8.

Date: July 26, 2018

Florida Power & Light Company  
Docket No. 20180109-EI  
Staff's First Data Request No. 4 c  
Attachment No. 1

49283-70115 85  
TERRY A AVERA  
1755 NW 93rd ST  
MIAMI, FL 33147

Service Date	# of Days	KWH As-Billed	Seasonal Average %	KWH Re-Billed	Remarks
07/15/13	31	1331	10.24%	3900	$38084 * 10.24\% = 3900$
06/14/13	30	1498	9.28%	3534	$38084 * 9.28\% = 3534$
05/15/13	30	1441	8.44%	3214	$38084 * 8.44\% = 3214$
04/15/13	32	1373	6.88%	2620	$38084 * 6.88\% = 2620$
03/14/13	28	1031	5.82%	2216	$38084 * 5.82\% = 2216$
02/14/13	30	1286	6.07%	2312	$38084 * 6.07\% = 2312$
01/15/13	33	1500	6.90%	2628	$38084 * 6.90\% = 2628$
12/13/12	30	1335	6.47%	2464	$38084 * 6.47\% = 2464$
11/13/12	29	1453	7.13%	2715	$38084 * 7.13\% = 2715$
10/15/12	31	1862	9.52%	3626	$38084 * 9.52\% = 3626$
09/14/12	30	1784	10.47%	3987	$38084 * 10.47\% = 3987$
08/15/12	30	1819	10.91%	4155	$38084 * 10.91\% = 4155$
		<b>98,951</b>		<b>182,688</b>	$182,688 \text{ Re-billed} - 98,951 \text{ As-billed} = 83,737 \text{ Additional kWh billed}$

**Attachment B:**  
**Photograph of Meter ACD5693, with wire, provided by FPL**





# 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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of the General Counsel (Harper) *AGC S.M.C.*  
Office of Industry Development and Market Analysis (Crawford) *TSC CH*

**RE:** Docket No. 20180124-EQ – Petition for declaratory statement concerning leasing of solar equipment, by Vivint Solar Developer, LLC.

**AGENDA:** 08/07/18 – Regular Agenda – Parties May Participate at the Commission's Discretion

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Brown

**CRITICAL DATES:** 08/21/18 (Final Order must be issued by this date pursuant to Section 120.565(3), Florida Statutes)

**SPECIAL INSTRUCTIONS:** None

---

### Case Background

On May 23, 2018, Petitioner, Vivint Solar Developer, LLC (Vivint), filed a petition for a declaratory statement (Petition). Vivint asks the Commission to declare that based on the facts presented by Vivint:

- (1) Vivint's proposed residential solar equipment lease, as described by its petition, will not be deemed to constitute a sale of electricity;
- (2) Offering its solar equipment lease to consumers in Florida will not cause Vivint to be deemed a public utility; and
- (3) The residential solar equipment lease described in its petition will not subject Vivint or Vivint's customer-lessees to regulation by this Commission.

Pursuant to Rule 28-105.0024, Florida Administrative Code (F.A.C.), a Notice of Declaratory Statement was published in the May 29, 2018, edition of the Florida Administrative Register, informing interested persons of the Petition. There were no requests to intervene filed.

This recommendation addresses Vivint's Petition for Declaratory Statement. The Commission has jurisdiction pursuant to Section 120.565, F.S., and Chapter 366, F.S.

## Discussion of Issues

**Issue 1:** Should the Commission grant Vivint's Petition for Declaratory Statement?

**Recommendation:** Yes. Based on the facts presented by Vivint, the Commission should grant Vivint's Petition and declare: (1) Vivint's proposed residential solar equipment lease, as described by its petition, will not be deemed to constitute a sale of electricity; (2) Offering its solar equipment lease, as described in its petition, to consumers in Florida will not cause Vivint to be deemed a public utility; and (3) The residential solar equipment lease described in its petition will not subject Vivint or Vivint's customer-lessees to regulation by this Commission. The Commission should also state that its declaration is limited to the facts described in Vivint's Petition and would not apply to different, alternative facts. (Harper, Crawford)

**Staff Analysis:** Vivint's Petition asks the Commission to declare whether Vivint's solar leasing program as described in Vivint's Petition will make Vivint or its lease customers a public utility subject to the Commission's jurisdiction under Section 366.02(1), F.S. Although Vivint provided a copy of a draft solar equipment lease, approving Vivint's draft lease does not fall within the Commission's jurisdiction and review of the lease is not necessary for the Commission's determination of Vivint's Petition.

The facts in Vivint's Petition are virtually identical to the facts set forth by Sunrun Inc. in Docket No. 20170273-EQ. Thus, staff is unsure as to why Vivint saw a need to request a declaratory statement. Vivint's Petition states that it is aware of the Commission's recent decision in Order No. PSC-2018-0251-DS-EQ, issued May 17, 2018, in Docket No. 20170273-EQ, *In re: Petition of Sunrun Inc. for a declaratory statement concerning the leasing of solar equipment* and that the order was limited to the specific facts described in Sunrun's Petition. According to Vivint, it is seeking this declaratory statement to remove questions or doubts concerning the applicability of the statutes, rules and orders identified in its particular set of circumstances, including its proposed long-term lease of solar generation equipment to residential customers throughout Florida.

Vivint's Petition states that its proposed residential equipment lease program will have fixed lease payments that are independent of electric production. This is consistent with Rule 25-6.065, F.A.C., which allows customers to lease an on-site renewable generation system from a third-party without triggering the Commission's jurisdiction. This is also consistent with the Commission's recent decision in *Sunrun*. Staff recommends the Commission grant Vivint's Petition for Declaratory Statement. Below is a more detailed explanation of staff's recommendation.

### Law Governing Petitions for Declaratory Statements

A declaratory statement procedure is intended to enable members of the public to definitively resolve ambiguities of law arising in the planning of their future affairs and to enable the public to secure definitive binding advice as to the applicability of agency-enforced law to a particular set of facts. *Department of Business and Professional Regulation, Div. of Pari-Mutuel Wagering v. Investment Corp. of Palm Beach*, 747 So. 2d 374, 382 (Fla. 1999). Declaratory statements are

governed by Section 120.565, F.S., and the Uniform Rules of Procedure in Chapter 28-105, F.A.C. Section 120.565, F.S., states, in pertinent part:

- (1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.
- (2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule or order that the petitioner believes may apply to the set of circumstances.

Rule 28-105.001, F.A.C., Purpose and Use of Declaratory Statement, provides:

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person.

If a petitioner requesting a declaratory statement meets the filing requirements provided by Rule 28-105.002, F.A.C., an agency must issue the declaratory statement.<sup>1</sup> Rule 28-105.003, F.A.C., provides the requirements for how agencies must dispose of declaratory statements. The rule states that an agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts.

### **Vivint's Petition for Declaratory Statement**

#### ***Vivint's particular circumstances and facts***

The Petition states that Vivint is one of the nation's largest dedicated residential solar, storage, and energy services company with over 125,000 customers in 21 states and the District of Columbia. Vivint offers solar equipment cash sales in those 21 states and also offers a solar equipment lease program to homeowners in a number of states including Arizona, California, and South Carolina, with plans to expand the program to additional states. Vivint now seeks to offer its residential equipment lease program to Florida residential customers.

In Florida, Vivint currently sells solar equipment to residential customers but does not offer a lease option.<sup>2</sup> Vivint offers customers who cannot pay cash for their solar generation equipment an option to finance the purchase of their solar equipment. Vivint's Petition states its proposed solar equipment lease will provide another financing option to Florida homeowners who prefer not to or cannot afford to purchase and pay upfront for a residential solar system. Vivint states that its proposed Florida residential solar equipment lease complies with Florida law, is consistent with prior Commission precedent, and will consist of a 20 year lease of solar

---

<sup>1</sup> An agency has an obligation to issue a declaratory statement explaining how a statute or rule applies in the petitioner's particular circumstances even if the explanation would have a broader application than to the petitioner. *Soc'y for Clinical & Med. Hair Removal, Inc. v. Dep't of Health*, 183 So. 3d 1138, 1144 (Fla. 1st DCA 2015).

<sup>2</sup> See [www.vivintsolar.com/state/florida](http://www.vivintsolar.com/state/florida).

equipment intended to provide a homeowner with the means to generate much of the electricity needed for that residence. Vivint's Petition states its residential solar equipment lease will include the following provisions:

- Monthly lease payments will be fixed for a 20-year lease term. The payment amounts will be based on costs to purchase the solar equipment and install the system, plus a rate of return for Vivint's investment. The customer-lessee payments will be independent of electricity generated by the solar system, utility prices, maintenance activities, solar irradiance, or any other operating operational variable of the leased equipment.
- Vivint will hold legal title to the leased equipment and will receive all Investment Tax Credits, and any other benefits associated with the investment.
- Vivint will have no control over the use of the equipment other than as the beneficiary of the representations and covenants from the customer-lessee contained in the lease.
- At the lease expiration, the customer-lessee will be able to purchase the solar equipment at fair market value, renew the lease on an annual basis, or request removal of the equipment at no additional cost.
- Vivint will provide industry standard workmanship warranties to ensure the highest quality installation and protect the customer-lessee's home from damage during the installation process. The customer-lessee will bear the costs of ongoing system maintenance through their specified monthly lease payment. The system's equipment warranties and maintenance services will be triggered by damage to or malfunction of the system, or its components, and are not dependent upon electrical generation or system production rates.
- The customer-lessee will be responsible for the cost of non-warranty maintenance, repair, and replacement, including for example, alteration of the system and any damage to the system due to windstorm, vandalism, negligence or other events not directly caused by Vivint.
- Once the system is installed and interconnected, the costs and expenses of maintaining and insuring the equipment are all borne by the customer-lessee except to the extent assumed by Vivint through the maintenance provisions of the lease.
- The customer-lessee will be responsible for all taxes assessed on or arising from installation or operation of the leased equipment.
- Lease terms and conditions will be compliant with applicable Florida state law, and applicable IRS and accounting standards.

Vivint provided the Commission with a draft solar lease for the limited purpose of assisting the Commission to further understand the facts in the Vivint Petition. Although staff reviewed the lease and its relevant provisions appear to be consistent with the petition, staff believes a review of the lease is not necessary for the Commission's determination of Vivint's Petition. Instead, staff's analysis primarily focuses on whether Vivint's Petition meets the standards for a declaratory statement. Staff need only look to Vivint's Petition for this analysis. Other provisions in Vivint's draft lease that involve statutes and rules that are outside the Commission's

jurisdiction, such as those provisions that relate to Vivint's compliance with the consumer protection laws, are not relevant to and therefore were not considered in staff's analysis.<sup>3</sup> The analysis is limited solely to the jurisdiction question raised by the Petition.

***Statutes, Rules, and Commission Orders Applicable to Vivint's Facts***

The statute to be applied is Section 366.02(1), F.S., which states, in pertinent part, that the Commission's jurisdiction extends to public utilities defined as:

Every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas...to or for the public within the state.

The rule that applies is Rule 25-6.065, F.A.C., which provides, in pertinent part:

The term 'customer-owned renewable generation' does not preclude the customer of record from contracting for the purchase, lease, operation, or maintenance of an on-site renewable generation system with a third-party under terms and conditions that do not include the retail purchase of electricity from the third party.

Rule 25-6.065, F.A.C., allows customers to contract to lease an on-site renewable generation system with a third-party. The rule allows leases for solar equipment that include a maintenance agreement so long as the lease payments do not depend on electric generation.

The Commission order applicable to Vivint's Petition is Order No. PSC-2018-0251-DS-EQ, issued May 17, 2018, in Docket No. 20170273-EQ, *In re: Petition of Sunrun Inc. for a declaratory statement concerning the leasing of solar equipment*. In *Sunrun*, the Commission declared that consistent with Rule 25-6.065, F.A.C., the Commission does not have jurisdiction to regulate a company or its customer-lessees when customers-lessees lease solar generation equipment, pay a flat monthly lease payment for their personal use of the equipment, and that flat monthly lease payment is not based on electric generation.

**Staff's Analysis of Vivint's Petition for Declaratory Statement**

Vivint's Petition asks the Commission whether Vivint's proposed solar leasing program triggers the Commission's jurisdiction under Section 366.02(1), F.S. In its Petition, Vivint states that the declaratory statement procedure can assist Vivint with planning its future conduct and will help avoid costly administrative litigation by selecting the proper course of action in advance. Because Vivint seeks to offer and market the residential solar equipment lease program in Florida only if the Commission grants, in the affirmative, its request for a declaratory statement, Vivint is a substantially affected person and has standing to bring its Petition.

According to the declaratory statement rules, the Commission's analysis of Vivint's Petition is limited to the facts presented in the Petition, and the Commission may answer the question

---

<sup>3</sup>See *Deltona Corp. v. Mayo*, 342 So. 2d 510 (Fla. 1977), the Florida Supreme Court held that consumer protection was outside the bounds of the Commission's jurisdiction: "If Deltona engaged in an unfair business practice or committed fraud, however, it may be a concern of other state agencies or the basis for private law suits (on which we express no opinion), but it is not a matter of statutory concern to the Public Service Commission."

without taking any position with regard to the validity of the facts.<sup>4</sup> Because the Commission's analysis in this case is limited solely to the jurisdiction question raised by Vivint's Petition, staff has analyzed the facts presented under Section 366.02(1), F.S., prior Commission orders, and Rule 25-6.065, F.A.C., to determine if Vivint's proposed program constitutes a sale of electricity.

***Rule 25-6.065, F.A.C., Interconnection and Net Metering of Customer-Owned Renewable Generation***

In 2002, the Commission adopted Rule 25-6.065, F.A.C., "to promote the development of small customer-owned renewable generation, particularly solar and wind energy systems."<sup>5</sup> In 2008, Rule 25-6.065, F.A.C., was amended to include net-metering and expedited interconnection, and to allow customers to lease solar equipment from a third party. The rule allows for a maintenance agreement to be included in the lease so long as the lease payments do not depend on electric generation.

According to Vivint's facts, the customer will be the end-user, and the lease payments do not depend on electric generation. Vivint's proposed solar equipment lease program shows that the lease customers must utilize their utility's service and interconnection and net metering provisions. This is consistent with Rule 25-6.065, F.A.C. Therefore, staff believes the lease program model as described in Vivint's Petition is consistent with Rule 25-6.065, F.A.C.

***Vivint's Petition is Consistent with the Sunrun Order***

In *Sunrun*, Sunrun requested a declaratory statement from the Commission stating that its proposed residential solar equipment lease did not constitute a sale of electricity and that the lease programs described in its petition would not subject Sunrun or its customer-lessees to regulation by the Commission. Sunrun provided a draft lease to the Commission at the request of the Commission for the limited purpose of assisting the Commission to further understand the facts in its petition.

The Commission answered Sunrun's request for a declaratory statement in the affirmative because Sunrun's Petition described fixed lease payments that would not vary based on electric generation. The Commission held that the proposed lease arrangement did not constitute a sale of electricity. The Commission found the Sunrun leasing model as described in its Petition was consistent with Rule 25-6.065, F.A.C., which allows customers to lease solar equipment from a third party and allows for a maintenance agreement so long as the lease payments do not depend on electric generation.

Like *Sunrun*, Vivint's lease payments are fixed and are therefore independent of electric production. Vivint's proposed residential solar equipment lease program will allow individual customers to generate electricity for personal use. Vivint's maintenance arrangement allows the company to maintain the solar panels without affecting the lease payments. Because the lease payments would not vary based on generation, the lease arrangement would not be considered a sale of electricity.

---

<sup>4</sup>See Rule 28-105.003, F.A.C.

<sup>5</sup>In 2005, the Florida legislature echoed the Commission's intent to promote customer-owned renewable generation when it enacted Section 366.91, F.S., to require public utilities to develop a standardized interconnection agreement and net metering programs for customer-owned renewable generation.



Staff believes that the Vivint Petition is consistent with both *Sunrun* and Rule 25-6.065, F.A.C. If Vivint goes outside the clear bounds of its Petition, then the Commission's declaratory statement would not apply. It is well settled that declaratory statements are inherently limited to the facts upon which they are based.<sup>6</sup> The declaratory statement will be controlling only as to the facts in Vivint's Petition and not as to other, different or additional facts.

### **Conclusion**

For the reasons set forth above, staff recommends that the Commission grant Vivint's Petition for Declaratory Statement and declare: (1) Vivint's proposed residential solar equipment lease, as described by its petition, will not be deemed to constitute a sale of electricity; (2) Offering its solar equipment lease, as described in its petition, to consumers in Florida will not cause Vivint to be deemed a public utility; and (3) The residential solar equipment lease described in its petition will not subject Vivint or Vivint's customer-lessees to regulation by this Commission. The Commission should also state that its declaration is limited to the facts described in Vivint's Petition and would not apply to different, alternative facts.

---

<sup>6</sup>Rule 28-105.003, F.A.C. (agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts). See also Order No. 23729, issued November 7, 1990, in Docket No. 900699-EQ, *In re: Petition of Seminole Fertilizer Corporation for a declaratory statement concerning the financing of a cogeneration facility*. (The Commission stated its conclusion was limited to the facts presented by the Petitioner.)

Date: July 26, 2018

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes, if the Commission votes to either grant or deny the Petition for Declaratory Statement, the docket should be closed. (Harper)

**Staff Analysis:** Whether the Commission grants or denies Vivint's Petition, a final order will be issued. Upon issuance of the final order, the docket should be closed.

# Item 7

State of Florida



FILED 7/26/2018  
DOCUMENT NO. 04900-2018  
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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Engineering (Knoblauch, Graves) *nk*  
Division of Accounting and Finance (Frank, Johnson, Norris) *DF*  
Division of Economics (Bruce, Hudson) *ALM*  
Office of the General Counsel (DuVal) *EKM*  
*DB* *TH* *GS* *BR* *MS* *TT*

**RE:** Docket No. 20170230-WU – Application for staff-assisted rate case in Pasco County by Orange Land Utilities, LLC.

**AGENDA:** 08/07/18 – Regular Agenda – Proposed Agency Action – Except for Issue Nos. 10, 11, and 12 - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Clark

**CRITICAL DATES:** 03/15/19 (15 Month Effective Date (SARC))

**SPECIAL INSTRUCTIONS:** None

## **Table of Contents**

Case Background .....	1
Issue 1 Quality of Service .....	2
Issue 2 Used and Useful.....	5
Issue 3 Average Test Year Rate Base .....	7
Issue 4 Rate of Return.....	9
Issue 5 Test Year Revenues .....	10
Issue 6 Operating Expenses .....	11
Issue 7 Revenue Requirement.....	15
Issue 8 Appropriate Rate Structure .....	16
Issue 9 Customer Deposits.....	18
Issue 10 Four Year Rate Reduction .....	19
Issue 11 Recommended Rates .....	20
Issue 12 Book Adjustments .....	22
Issue 13 Docket Closure .....	23
Schedule No. 1-A – Water Rate Base .....	24
Schedule No. 1-B - Adjustments to Rate Base .....	25
Schedule No. 2 – Capital Structure.....	26
Schedule No. 3-A - Water Operating Income.....	27
Schedule No. 3-B – Adjustments to Operating Income.....	28
Schedule No. 3-C - Water Operation and Maintenance Expense .....	29
Schedule No. 4 – Monthly Water Rates.....	30

## Case Background

Orange Land Utilities, LLC (Orange Land or Utility) is a Class C water utility serving approximately 74 residential and 2 general service customers in Pasco County. Orange Land's service territory is located in the Southwest Florida Water Management District (SWFWMD). The Florida Public Service Commission (Commission) granted the transfer of Certificate No. 288-W from Orangeland Water Supply to Orange Land effective the date of the Commission vote on February 7, 2017.<sup>1</sup> The Utility's rates were last established in its 2008 staff-assisted rate case (SARC) settlement with the Office of Public Counsel (OPC) by Order No. PSC-08-0640-AS-WU.<sup>2</sup> Orange Land is currently owned by Michael Smallridge and operated under Florida Utility Services 1, LLC (FUS1).

On October 26, 2017, Orange Land filed an application for a SARC. Pursuant to Section 367.0814(2), Florida Statutes, (F.S.), the official filing date of the SARC has been determined to be December 15, 2017. Staff selected the test year ended September 30, 2017, for the instant case. Orange Land is requesting recovery of plant additions, including the replacement of a hydropneumatic tank, well-house roof, electric panel, flow meter, and customer water meters. According to Orange Land's 2017 Annual Report, it reported total operating revenue of \$22,561 and a net operating loss of (\$3,886). The Commission has jurisdiction in this case pursuant to Sections 367.011, 367.081, 367.0812, 367.0814, and 367.091, F.S.

---

<sup>1</sup>Order No. PSC-17-0092-PAA-WU, issued March 13, 2017, in Docket No. 20160144-WU, *In re: Application for transfer of Certificate No. 288-W in Pasco County from Orangeland Water Supply to Orange Land Utilities, LLC.*

<sup>2</sup>Order No. PSC-08-0640-AS-WU, issued October 3, 2008, in Docket No. 20070601-WU, *In re: Application for staff-assisted rate case in Pasco County by Orangeland Water Supply.*

## Discussion of Issues

**Issue 1:** Is the quality of service provided by Orange Land Utilities, LLC satisfactory?

**Recommendation:** Staff recommends that the overall quality of service provided by Orange Land is satisfactory. (Knoblauch)

**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 consideration of three separate components of the utility's operations.<sup>3</sup> The components are: (1) the quality of the utility's product; (2) the utility's attempt to address customer satisfaction; and (3) the operating conditions of the utility's plant and facilities. 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), 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 the Utility's Product

In evaluation of Orange Land's product 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. A review of DEP compliance records from October 1, 2014, through September 30, 2017, indicates Orange Land's finished product met all primary and secondary water quality standards. The most recent chemical analyses were performed on December 1, 2015, and the results were in-compliance with the DEP's standards. These chemical analyses are performed every three years; therefore, the next scheduled analysis should be completed in 2018.

At the customer meeting held on April 30, 2018, two customers voiced concerns related to the quality of Orange Land's water. The first customer stated that the quality of the water had deteriorated since the prior owner. The customer further asserted that multiple repairs to their filtration system had been required, and brought to the customer meeting a sink faucet which the customer described as "corroded" and showing signs of excess chlorine.

The second customer expressed concerns regarding a notice on their water bills instructing customers to boil their water. The customer stated that the boil water notice referenced the last hurricane in 2017, and the notice had remained on customer's bills up to the customer meeting. Both customers that spoke affirmed that they utilized a filtration system and used bottled water for consumption.

Eight customer comments were filed in the docket from four customers, including the two customers who spoke at the customer meeting. One customer filed a total of five comments, which included pictures of the customer's water filter, as well as concerns about low pressure,

---

<sup>3</sup>Rule 25-30.433(1), F.A.C., was amended on July 11, 2018. Staff's analysis is based on the Rule at the time of the Utility's filing.

Date: July 26, 2018

DEP testing, boil water notices, and additional water testing that was completed by the prior Utility owner. The second customer filed comments in the docket that reiterated their concerns from the customer meeting, including apprehensions about the rate increase considering the quality of the water service. The customer also referenced low pressure, brown water, and a boil water notice due to a broken pipe. Comments were also received from two other customers, both of which referenced poor water quality.

While the Commission has received some comments regarding the quality of Orange Land's water, the water issues do not appear to be systemic considering the number of complaints that were received. The majority of complaints appear to be related to the aesthetics of the water. However, the Utility's product is in compliance with DEP primary and secondary standards as indicated by Orange Land's most recent tests performed on December 1, 2015. Therefore, staff recommends that the quality of Orange Land's product is satisfactory.

### **The Utility's Attempt to Address Customer Satisfaction**

Staff held a customer meeting on April 30, 2018, to receive customer comments regarding the quality of service. Two customers spoke at the customer meeting and, as previously discussed, both customers described water quality issues. In addition to water quality, the second customer also expressed concerns regarding the size of the rate increase and its impact on customers.

The Utility filed a letter in the docket outlining its follow-up action addressing the concerns raised at the customer meeting. Orange Land stated that it spoke with the first customer and informed them that the water was in compliance with the DEP and was safe to drink. Additionally, the customer was advised to maintain any customer installed filters and to flush their hot water heater biannually. The Utility also stated that the second customer was contacted and their questions and concerns were discussed.

In response to the comments filed in the docket, Orange Land responded that it had been in contact with the first customer that spoke at the customer meeting, who is the same customer that filed comments in the docket. The Utility indicated that the low water pressure had been due to an emergency repair at the water treatment plant (WTP), and the boil water notices had been removed from customer bills.

Staff reviewed the Commission's complaint records from October 1, 2012, through the end of the test year, and found one complaint received on February 10, 2017. The complaint involved the Utility's limited access to a customer's water meter, which was located inside of a fenced yard with a canine. A resolution letter was sent to the customer on August 22, 2017, following several failed attempts by staff to contact the customer and the complaint was subsequently closed. Staff also reviewed the complaint records through July 24, 2018, and no additional complaints were received by the Commission.

Staff requested all complaints received by the Utility during the test year and four years prior. The Utility provided one complaint which was received on May 8, 2017. The complaint stated that the bathroom sink faucet was dripping and dirty water was backing up into the customer's bathtub. To address the water dripping from the sink, the Utility cleaned the faucet, which contained sand. The issue of backup in the bathtub would not be an issue addressed by the water Utility.



Date: July 26, 2018

Additionally, staff did not identify any DEP complaints made during the test year or four years prior. However, staff contacted the DEP regarding complaints that were received after the test year and the DEP indicated that two complaints had been made. One of the complaints was from the first customer that spoke at the customer meeting. The customer raised similar concerns to those at the customer meeting on boil water notices, mold growing in filter system, colored rings forming in toilet, and high chlorine. The DEP specified that the complainant's filter system was outside and it notified the customer that sun exposure could cause the growth of mold. Additionally, the DEP conducted a site visit in response to the customer's concerns, and the chlorine residual was found to be below acceptable levels. The DEP contacted the system operator, who stated that chlorine was subsequently added and the chlorine residual was testing within acceptable levels. The DEP conducted a second site visit and the chlorine residual at the plant and at the complainant's home were again within acceptable levels.

The second DEP complaint was regarding color and odor, as well as residue in the water. Orange Land responded that the water had to be shut off because of a lightning strike at the well, and customers were notified of the service interruption. As a result of the power failure at the well, dirt had collected in the water. Additionally, the Utility indicated that the residue was calcium scale build-up, and advised the customer that a water softener and regular flushing of their hot water heater could be beneficial.

Orange Land appears to be responsive to customers based on the Utility's follow-up action after the customer meeting and in response to customer complaints. Therefore, based on staff's review of customer complaints, staff believes that Orange Land has satisfactorily attempted to address customer satisfaction.

### **Operating Condition of the Utility's Plant and Facilities**

Orange Land's WTP has two wells and a hydropneumatic tank. The raw water obtained from the two wells is treated with chlorine bleach. Staff reviewed the Utility's last DEP Sanitary Survey, dated April 24, 2017, which identified six deficiencies at Orange Land's WTP. The deficiencies found were bio-growth on the hydropneumatic tank and piping, lack of sampling and monitoring plans, low chlorine residual levels in the distribution system, and absence of meter accuracy checks. In a letter dated October 26, 2017, the DEP stated that all deficiencies that were identified had been corrected and the system was determined to be in-compliance with the DEP's rules and regulations. Based on the Utility's compliance with the DEP, staff recommends the operating condition of Orange Land's plant and facilities is satisfactory.

### **Conclusion**

Staff recommends the overall quality of service provided by Orange Land is satisfactory.

Date: July 26, 2018

**Issue 2:** What are the used and useful (U&U) percentages of Orange Land Utilities, LLC's WTP and distribution system?

**Recommendation:** Orange Land's WTP and distribution system should continue to be considered 100 percent U&U. There appears to be no excessive unaccounted for water (EUW); therefore, staff recommends that no adjustment be made to operating expenses for chemicals and purchased power. (Knoblauch)

**Staff Analysis:** Orange Land's WTP has two wells rated at 110 gallons per minute (gpm) and 100 gpm. The Utility's water system does not have a storage tank, but has one hydropneumatic tank totaling 1,000 gallons in capacity. The distribution system is composed of 960 linear feet of 4 inch polyvinyl chloride (PVC), 570 linear feet of 4 inch asbestos cement (AC), and 2,250 linear feet of 2 inch PVC pipes.

Rule 25-30.4325, F.A.C., addresses the method by which the U&U of a water system is determined. The U&U for Orange Land's WTP and distribution system were last determined by Order No. PSC-08-0309-PAA-WU.<sup>4</sup> In that order, the Commission determined the Utility's service territory was built-out and found the WTP and distribution system to be 100 percent U&U.

### Used and Useful Percentages

As noted above, the Commission found both the WTP and distribution system to be 100 percent U&U in the prior rate case. The Utility has not increased the capacity of its water treatment facilities or distribution system since its last rate case. Therefore, consistent with the Commission's previous decision, staff recommends the Utility's WTP and water distribution system be considered 100 percent U&U.

### Excessive Unaccounted for Water

Rule 25-30.4325, F.A.C., additionally provides factors to be considered in determining whether adjustments to operating expenses are necessary for EUW. EUW is defined 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.

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. Based on monthly operating reports, Orange Land produced 4,107,000 gallons of water from October 1, 2016, to September 30, 2017. From the audit completed by staff, the Utility sold 3,680,739 gallons of water to customers. The Utility documented 18,000 gallons of water usage for line flushing. The resulting calculation  $([4,107,000 - 3,680,739 - 18,000] / 4,107,000)$  for unaccounted for water is 9.9 percent; therefore, there is no EUW. Staff recommends no adjustments should be made to purchased power and chemicals at this time.

---

<sup>4</sup>PSC-08-0309-PAA-WU, issued May 13, 2008, in Docket No. 20070601-WU, *In re: Application for staff-assisted rate case in Pasco County by Orangeland Water Supply*.

Date: July 26, 2018

**Conclusion**

Orange Land's WTP and distribution system should be considered 100 percent U&U. Additionally, staff recommends no adjustment to purchased power and chemicals should be made for EUW.

**Issue 3:** What is the appropriate average test year rate base for Orange Land Utilities, LLC?

**Recommendation:** The appropriate average test year rate base for Orange Land is \$29,381. (Frank, Knoblauch)

**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 was last established as of May 1, 2016, in Docket No. 20160144-WU.<sup>5</sup> Staff selected the test year ended September 30, 2017, for the instant case. A summary of each rate base component and recommended adjustments are discussed below.

### Utility Plant in Service (UPIS)

The Utility recorded a test year UPIS balance of \$52,241. Staff increased UPIS by \$866 to include an averaging adjustment.

Orange Land has requested several pro forma plant projects. The pro forma projects include replacement of a hydropneumatic tank, flow meter, well-house roof, and electrical panel, as well as a meter replacement program. The Utility obtained two bids for the hydropneumatic tank, well-house roof, and electrical panel projects and the lowest bids were selected for each respective project. The replacement of the flow meter was completed by Orange Land, and the Utility will also be completing the work for the meter replacement program. As such, staff increased UPIS by \$8,032.

**Table 3-1**  
**Pro Forma Projects**

Description	Pro Forma Cost	Retirement	Net Amount	Net Depreciation Expense	Net Acc. Depreciation
Hyrdo Tank	\$10,274	(\$9,205)	\$1,069	\$36	\$8,863
Meter Replacement	3,450	(2,587)	863	\$51	\$2,384
Well-House Roof	700	0	700	\$26	(\$26)
Electrical Panel	5,122	0	5,122	\$301	(\$301)
Flow Meter	<u>278</u>	<u>0</u>	<u>278</u>	<u>\$9</u>	<u>(\$9)</u>
<b>Total</b>	<u>\$19,824</u>	<u>(\$11,792)</u>	<u>\$8,032</u>	<u>\$422</u>	<u>\$10,911</u>

Source: Document Nos. 02337-2018, 02338-2018, and 04327-2018.

<sup>5</sup>Order No. PSC-17-0092-PAA-WU, issued March 13, 2017, in Docket No. 20160144-WU, *In re: Application for transfer of Certificate No. 288-W in Pasco County from Orangeland Water Supply to Orange Land Utilities, LLC*.

Date: July 26, 2018

Staff's net adjustment to UPIS is an increase of \$8,898 (\$866 + \$8,032). Therefore, staff recommends that the appropriate UPIS balance is \$61,139.

### **Land & Land Rights**

The Utility recorded a test year land balance of \$1,000. Based on staff's review, no adjustment is necessary. Therefore, staff recommends that the appropriate balance for land is \$1,000.

### **Used & Useful**

As discussed in Issue 2, Orange Land's WTP and distribution system are considered 100 percent U&U. Therefore, no U&U adjustments are necessary.

### **Accumulated Depreciation**

Orange Land recorded a test year accumulated depreciation balance of \$44,378. Staff increased accumulated depreciation by \$825 to include an averaging adjustment. Staff also decreased accumulated depreciation by \$10,911 to reflect pro forma additions and corresponding retirements. Staff's adjustments result in a net decrease to accumulated depreciation of \$10,086 (\$10,911 - \$825). Staff recommends an accumulated depreciation balance of \$34,292.

### **Contributions In Aid of Construction**

The Utility recorded a CIAC balance of \$7,350. Based on staff's review, no adjustment is necessary. Therefore, staff recommends that the appropriate balance is \$7,350.

### **Accumulated Amortization of CIAC**

The Utility recorded a test year accumulated amortization of CIAC balance of \$6,222. Staff reduced accumulated amortization of CIAC by \$54 to include an averaging adjustment. As such, staff recommends an accumulated amortization of CIAC balance of \$6,168.

### **Working Capital Allowance**

Working capital is defined as the short-term investor-supplied funds that are necessary to meet operating expenses. Consistent with Rule 25-30.433(2), F.A.C., staff used the one-eighth of the operation and maintenance (O&M) expense formula approach for calculating the working capital allowance. This formula does not include rate case expense. Applying this formula, staff recommends a working capital allowance of \$2,716 (based on O&M expense of \$21,728/8).

### **Rate Base Summary**

Based on the foregoing, staff recommends that the appropriate average test year rate base for Orange Land is \$29,381. Rate base is shown on Schedule No. 1-A. The related adjustments are shown on Schedule No. 1-B.

Date: July 26, 2018

**Issue 4:** What is the appropriate return on equity and overall rate of return for Orange Land Utilities, LLC?

**Recommendation:** The appropriate return on equity (ROE) is 10.32 percent with a range of 9.32 percent to 11.32 percent. The appropriate overall rate of return is 8.46 percent. (Frank)

**Staff Analysis:** According to staff's audit, Orange Land's test year capital structure reflected common equity of \$8,391 and long term debt of \$9,801. The Utility's capital structure has been reconciled with staff's recommended rate base. The appropriate ROE for the Utility is 10.32 percent based upon the Commission-approved leverage formula currently in effect.<sup>6</sup> Staff recommends an ROE of 10.32 percent, with a range of 9.32 percent to 11.32 percent, and an overall rate of return of 8.46 percent. The ROE and overall rate of return are shown on Schedule No. 2.

---

<sup>6</sup>Order No. PSC-2018-0327-PAA-WS, issued June 26, 2018, in Docket No. 20180006-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.*

Date: July 26, 2018

**Issue 5:** What are the appropriate test year revenues for Orange Land Utilities, LLC?

**Recommendation:** The appropriate test year revenues for Orange Land's water system are \$22,617. (Bruce)

**Staff Analysis:** Orange Land recorded total revenues of \$22,351. The water revenues included \$21,975 of service revenues and \$376 of miscellaneous revenues. During the test year, the Utility had a rate increase as a result of a price index. Therefore, staff annualized test year revenues by applying the rates in effect as of July 1, 2017, to the appropriate billing determinants. As a result, staff determined that service revenues should be \$22,241, which is an increase of \$266. There is no adjustment to miscellaneous revenues. The appropriate test year revenues for Orange Land water system, including miscellaneous revenues are \$22,617 (\$22,241 + \$376).

**Issue 6:** What is the appropriate amount of operating expense for Orange Land Utilities, LLC?

**Recommendation:** The appropriate amount of operating expense for Orange Land is \$25, 240. (Frank, Johnson)

**Staff Analysis:** Orange Land recorded operating expense of \$28,276 for the test year ended September 30, 2017. The test year O&M expenses have been reviewed, including invoices, canceled checks, and other supporting documentation. An allocated portion of FUS1's operating expenses were also included for the test year ended September 30, 2017. Allocations were based on the customer count of all utilities owned and managed by FUS1 in the test year. Staff's adjustments to the Utility's operating expenses are summarized below.

## **Operation & Maintenance Expense**

### **Salaries and Wages – Employees (601)**

The Utility requested an increase in salaries and wages expense based on the need for an additional 2.5 employees on FUS1's workforce and the allocation of one FUS1 employee who was not previously allocated to Orange Land. In total, the Utility requested additional costs for Orange Land's allocated portion of three new Maintenance Technicians and for the increase in allocated costs related to expanding an existing part-time customer billing position to full-time.

The current staffing level and salaries for FUS1 employees were last evaluated by the Commission in Order No. PSC-17-0107-PAA-WS.<sup>7</sup> At the time, FUS1 managed nine utilities with a total of 1,961 customers. As of September 30, 2017, FUS1 now owns and operates 12 utilities with a total of 2,791 customers.<sup>8</sup> With the additional customers added to FUS1, staff believes it is appropriate to increase the part-time billing position to a full-time position.

The Utility requested that the salary of an existing Maintenance Technician be allocated to the Orange Land system. The Utility made a similar request in Docket No. 20150257-WS; however, the Commission determined that the Maintenance Technician should not be allocated to the East Marion system as the employee did not work on that particular system. In the present case, Orange Land indicated that the Maintenance Technician would be working on all of FUS1's systems moving forward. The Utility also requested two additional Maintenance Technicians, who would similarly be employed for the maintenance of all systems.

Staff believes that the existing Maintenance Technician should be allocated to Orange Land considering that the employee will now be maintaining the system. Staff also believes that the addition of the Maintenance Technician to the Orange Land system will provide backup support in the event that the President and/or Operations Supervisor are unavailable. Given the number and size of the systems currently owned by FUS1, staff considers three field employees to be adequate for providing service. Staff does not believe that the two additional Maintenance Technicians should be allocated to Orange Land as the Utility currently utilizes a contractor for the system's operations.

---

<sup>7</sup>Order No. PSC-17-0107-PAA-WS, issued March 24, 2017, in Docket No. 20150257-WS, *In re: Application for staff-assisted rate case in Marion County, by East Marion Utilities, LLC*.

<sup>8</sup>Three utilities are still being processed as transfers.



Date: July 26, 2018

FUS1 is requesting a salary of \$37,900 for the Maintenance Technician. Staff used the American Water Works Associations' (AWWA) 2016 Compensation Survey in an effort to examine the reasonableness of the requested salary. The Maintenance Technician is currently being paid \$33,488 by FUS1. As stated earlier, the duties of the Maintenance Technician have increased as he now works on all of FUS1's systems. Furthermore, the requested \$37,900 represents the minimum for rural system Maintenance Technicians found in the AWWA 2016 Compensation Survey. Therefore, staff believes the requested salary for the Maintenance Technician is appropriate.

Table 6-1 below details the requested and recommended amounts for each of FUS1's positions, as well as the allocations for each position to Orange Land.

**Table 6-1**  
**Adjustments made to Salaries and Wages – Employees**

<b>Title</b>	<b>Requested</b>	<b>Recommended</b>	<b>Allocation %</b>	<b>Recommended Allocated</b>
Chief Financial Off.	\$54,366	\$54,366	2.65	\$1,441
Office Manager	\$39,500	\$39,500	2.65	1,047
Cust. Serv. Rep.	\$34,000	\$34,000	2.65	901
Billing Position	\$20,800	\$20,800	2.65	551
Oper. Supervisor	\$39,000	\$39,000	2.65	1,034
Maintenance Tech.	\$37,900	\$37,900	2.65	1,004
Maintenance Tech.	\$37,900	\$0	2.65	0
Maintenance Tech.	\$37,900	\$0	2.65	0
<b>Total</b>				<u><b>\$5,978</b></u>

Staff believes the salary levels and allocation percentage are appropriate and necessary for Orange Land. Orange Land recorded salaries and wages – employees expense of \$8,116. Based on the most recent allocation of 2.65 percent, as reflected at the end of the test year, staff has increased salaries and wages by \$1,280 to account for the full-time billing position and Maintenance Technician. A corresponding adjustment should also be made to decrease the account by \$3,418 to reflect the prospective allocation of test year salaries. Staff's total adjustments result in a decrease to salaries and wages – employees expense of \$2,138 (-\$3,418 + \$1,280). Therefore, staff recommends a salaries and wages – employees expense of \$5,978 for Orange Land.

#### ***Salaries and Wages – Officers (603)***

Orange Land recorded salaries and wages – officer's expense of \$3,553. Staff reduced this account by \$900 to remove salary and wages expense misallocated from outside the test year. Additionally, Orange Land requested a pro forma increase to salaries and wages – officers expense to reflect the increase in salary for FUS1's President. Orange Land requested an allocated portion of \$80,000 for the President of FUS1.

Date: July 26, 2018

The current salary for the President is \$72,704, as approved in Order No. PSC-17-0107-PAA-WS;<sup>9</sup> which ultimately fell between the minimum and mid-average salary range found on the 2016 AWWA Compensation Survey. In the instant case, staff considered the last approved salary, along with the President's increased responsibilities in managing and overseeing FUS1's utilities. Since the President's last-approved salary, FUS1 has added three utilities and 830 customers, which represents a growth of 42 percent. In addition, the requested \$80,000 represents the mid average salary range found in the 2016 AWWA Compensation Survey. Therefore, staff believes a President's salary for FUS1 of \$80,000 is appropriate.

Based on the most recent allocation of 2.65 percent, as reflected at the end of the test year, staff has increased salaries and wages – officers expense by \$193. This increase accounts for Orange Land's allocated portion of the President's pro forma salary increase. A corresponding adjustment should also be made to decrease the account by \$726 to reflect the prospective allocation of test year salaries.

Staff's total adjustments result in a net decrease to salaries and wages – officers expense of \$1,433 (-\$900 - \$726 + \$193). Therefore, staff recommends a salaries and wages– officers expense of \$2,120.

#### ***Pensions and Benefits (604)***

Orange Land recorded pensions and benefits expense of \$958. Staff decreased this expense by \$304 to make a corresponding test year adjustment for an over-allocation of salaries from FUS1. Staff has increased this expense by \$128 to reflect Orange Land's allocation of the increase in pensions and benefits based on two new full-time employees for FUS1. Staff's adjustments result in a net decrease to pensions and benefits expense of \$176 (-\$304 + \$128). Therefore, staff recommends pensions and benefits expense of \$782.

#### ***Purchased Power (615)***

The Utility recorded purchased power expense of \$826. Staff decreased this account by \$5 for the removal of late payment fees. As such, staff recommends purchased power expense of \$821.

#### ***Insurance Expense (655)***

Orange Land recorded insurance expense of \$1,624 for the test year. Staff decreased this expense by \$265 to reflect the amount associated with its insurance policy. Therefore, staff recommends insurance expense of \$1,359.

#### ***Regulatory Commission Expense (665)***

Orange Land did not record regulatory commission expense for the test year. Staff calculated a total of \$1,137 in regulatory commission expense. This amount includes a \$1,000 filing fee and \$137 in noticing costs for the instant case. The recommended total rate case expense of \$1,137 should be amortized over four years, pursuant to Section 367.081(6), F.S. This represents an annual expense of \$284 (\$1,137/4). As such, staff recommends regulatory commission expense of \$284.

---

<sup>9</sup>Order No. PSC-17-0107-PAA-WS, issued March 24, 2017, in Docket No. 20150257-WS, *In re: Application for staff-assisted rate case in Marion County, by East Marion Utilities, LLC*.

Date: July 26, 2018

### **Bad Debt Expense (670)**

Orange Land did not record bad debt expense for the test year. Staff collected two years of bad debt expense data using the Utility's 2016 and 2017 Annual Reports, totaling \$327. Staff calculated a two-year average of bad debt expense of \$164. Staff believes 24 months of data is a valid representation of bad debt expense for this Utility.<sup>10</sup> Therefore, staff recommends bad debt expense of \$164.

### **Operation and Maintenance Expense Summary**

Based on the above adjustments, staff recommends that O&M expense should be decreased by \$3,569, resulting in total O&M expense of \$22,013. Staff's recommended adjustments to O&M expense are shown on Schedule No 3-C.

### **Depreciation Expense (Net of Amortization of CIAC)**

Orange Land recorded depreciation expense of \$751 during the test year. Staff calculated depreciation expense associated with the pro forma plant additions and retirements the Utility requested. These additions result in an increase of \$422. As such, staff recommends depreciation expense of \$1,173.

### **Taxes Other Than Income (TOTI)**

Orange Land recorded a TOTI balance of \$1,943 during the test year. Staff increased property tax expense by \$121 as a corresponding adjustment to the pro forma plant additions. Staff also decreased TOTI by \$53 to reflect the appropriate amount of a property tax bill received by the Utility in November of 2017. Additionally, staff decreased payroll taxes by \$198 as a corresponding adjustment to staff's recommended adjustment to salaries and wages expense. Staff increased the Regulatory Assessment Fees (RAFs) by \$12 to reflect the adjusted test year revenues. This results in a net decrease of \$118 ( $-\$53 - \$198 + \$12 + \$121$ ).

In addition, as discussed in Issue 7, revenues have been increased by \$5,110 to reflect the change in revenue required to cover expenses and allow the recommended return on investment. As a result, TOTI should be increased by \$230 to reflect RAFs of 4.5 percent on the change in revenues. Staff's adjustments result in a net increase of \$112 ( $-\$118 + \$230$ ). Therefore, staff recommends TOTI of \$2,055.

### **Operating Expenses Summary**

The application of staff's recommended adjustments to Orange Land's test year operating expenses results in operating expenses of \$25,240. Operating expenses are shown on Schedule No. 3-A. The related adjustments are shown on Schedule Nos. 3-B and 3-C.

---

<sup>10</sup>Order No. PSC-17-0144-PAA-WU, p.15, issued April 27, 2017, in Docket No. 20160143-WU, *In re: Application for staff-assisted rate case in Hardee County by Charlie Creek Utilities, LLC*. (For this sister company the Commission relied on 18 months of bad debt expense data.)

**Issue 7:** What is the appropriate revenue requirement for Orange Land Utilities, LLC?

**Recommendation:** The appropriate revenue requirement is \$27,727 resulting in an annual increase of \$5,110 (22.60 percent). (Frank)

**Staff Analysis:** Orange Land should be allowed an annual increase of \$5,110 (22.60 percent). The calculations are shown below in Table 7-1.

**Table 7-1**  
**Revenue Requirement**

Adjusted Rate Base	\$29,381
Rate of Return	<u>x 8.46%</u>
Return on Rate Base	2,528
Adjusted O&M Expense	22,013
Depreciation Expense (Net)	1,173
Taxes Other Than Income	1,825
Test Year RAFs	<u>230</u>
Revenue Requirement	27,727
Less Adjusted Test Year Revenues	<u>22,617</u>
Annual Increase	<u>5,110</u>
Percent Increase	<u>22.60%</u>

**Issue 8:** What is the appropriate rate structure and rates for Orange Land Utilities, LLC's water system?

**Recommendation:** The recommended rate structure and monthly water rates are shown on Schedule No. 4. 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. (Bruce)

**Staff Analysis:** Orange Land's water system is located in Pasco County within the SWFWMD. The Utility provides water service to 74 residential water customers and 2 general service customers. Approximately 4 percent of the residential customer bills during the test year had zero gallons indicating a non-seasonal customer base. The average residential water demand is 4,303 gallons per month. The Utility's current residential and general service rate structure consists of a base facility charge (BFC) and a two-tier inclining block rate structure. The rate blocks are 0-5,000 gallons and all usage in excess of 5,000 gallons per month.

Staff performed an analysis of the Utility's billing data in order to evaluate the appropriate rate structure 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 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.

Currently, approximately 60 percent of the Utility's revenues are recovered through the BFC. Typically, the Commission sets the BFC cost recovery no greater than 40 percent unless the utility's customer base is seasonal; however, seasonality is not an issue for this Utility. Staff recommends that 45 percent of the revenue requirement should be recovered through the BFC to mitigate the impact of the shift in the BFC cost recovery. Lowering the BFC cost recovery sends the appropriate pricing signals to target discretionary demand. The average persons per household served by the water system is 2.5; therefore, based on the number of person per household, 50 gallons per day per persons, and the number of days per month, the non-discretionary usage threshold should be 4,000 gallons per month. Staff recommends a continuation of the two-tier rate structure with separate gallonage charges for discretionary and non-discretionary usage for residential water customers. The rate blocks should be: (1) 0-4,000 gallons; and (2) all usage in excess of 4,000 gallons per month. This rate structure will continue to send the appropriate pricing signals, which will target customers with high consumption levels and minimize price increases for customers at non-discretionary levels. The recommended general service rates do not include an inclining block because general service customers are less likely to conserve since they typically pass the cost to their customers. Therefore, staff recommends that the general service rate structure be revised to include a BFC and uniform gallonage charge.

Based on a recommended revenue increase of 22.60 percent, which excludes miscellaneous revenues, the residential consumption can be expected to decline by 199,000 gallons resulting in anticipated average residential demand of 4,064 gallons per month. Staff recommends a 5.6 percent reduction in test year residential gallons for ratesetting purposes and corresponding reductions of \$44 for purchased power and \$2 for RAFs to reflect the anticipated repression, which results in a post repression revenue requirement of \$27,305. As shown in Table 8-1, in comparison to staff's recommended rate structure and rates, Alternatives I and II send less of a pricing signal for targeting discretionary usage. In addition, Alternative II provides higher percentage price increases and prices to customers below the non-discretionary threshold.

**Table 8-1**  
**Staff's Recommended and Alternative Water Rate Structures and Rates**

	<b>RATES AT TIME OF FILING</b>	<b>STAFF RECOMMENDED RATES (45% BFC)</b>	<b>ALTERNATIVE I (50% BFC)</b>	<b>ALTERNATIVE II (60% BFC)</b>
<b><u>Residential</u></b>				
5/8" x 3/4" Meter Size	\$14.91	\$13.99	\$15.55	\$18.67
Charge per 1,000 gallons				
0-5,000 gallons	\$2.15			
Over 5,000 gallons	\$3.17			
0-4,000 gallons		\$4.09	\$3.72	\$2.97
Over 4,000 gallons		\$4.77	\$4.24	\$3.26
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>				
4,000 Gallons	\$23.51	\$30.35	\$30.43	\$30.55
8,000 Gallons	\$35.17	\$49.43	\$47.39	\$43.59
10,000 Gallons	\$41.51	\$58.97	\$55.87	\$50.11

Based on the above, the recommended rate structure and monthly water rates are shown on Schedule No. 4. 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.

Date: July 26, 2018

**Issue 9:** What are the appropriate initial customer deposits for Orange Land Utilities, LLC water system?

**Recommendation:** The appropriate initial customer deposit should be \$64 for the residential 5/8 inch x 3/4 inch meter size. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for water. The approved initial customer deposits should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding. (Bruce)

**Staff Analysis:** Rule 25-30.311, F.A.C., provides the criteria for collecting, administering, and refunding customer deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the utility and, ultimately, the general body of ratepayers. An initial customer deposit ensures that the cost of providing service is recovered from the cost causer. Historically, the Commission has set initial customer deposits equal to two times the average estimated bill.<sup>11</sup> Currently, the Utility's initial deposit for residential water is \$42 for the 5/8 inch x 3/4 inch meter size and two times the average estimated bill for the general service meter sizes. Based on the staff recommended water rates and post repression average residential demand, the appropriate initial customer deposit for water should be \$64 to reflect an average residential customer bill for two months.

Staff recommends the appropriate initial customer deposits should be \$64 for the residential 5/8 inch x 3/4 inch meter size for water. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for water. The approved initial customer deposits should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved deposits until authorized to change them by the Commission in a subsequent proceeding.

---

<sup>11</sup>Order No. PSC-15-0142-PAA-SU, issued March 26, 2015, in Docket No. 20130178-SU, *In re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company*.

Date: July 26, 2018

**Issue 10:** What is the appropriate amount by which rates should be reduced in four years after the published effective date to reflect the removal of the amortized rate case expense as required by Section 367.081(8) F.S.?

**Recommendation:** The rates should be reduced as shown on Schedule No. 4, 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, pursuant to Section 367.081(8), F.S. Orange Land 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 the Utility 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. (Frank, Bruce)

**Staff Analysis:** Section 367.081(8), F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in rates. The reduction will reflect the removal of revenue associated with the amortization of rate case expense and the gross-up for RAFs. The total reduction is \$298.

The rates should be reduced as shown on Schedule No. 4 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, pursuant to Section 367.081(8), F.S. Orange Land 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 the Utility 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.



Date: July 26, 2018

**Issue 11:** Should the recommended rates be approved for Orange Land Utilities, LLC on a temporary basis, subject to refund with interest, 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 with interest, in the event of a protest filed by a party other than the Utility. Orange Land 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's Office of Commission Clerk no later than the 20th of each 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. (Frank)

**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. Orange Land 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.

Orange Land 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 \$3,442. 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, and,
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

Date: July 26, 2018

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 express approval of the Commission;
- 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.

Should the recommended rates be approved by the Commission on a temporary basis, Orange Land should maintain a record of the amount of the security, 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's Office of Commission Clerk no later than the 20th of each 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.

Date: July 26, 2018

**Issue 12:** Should Orange Land Utilities, LLC be required to notify the Commission in writing that it has adjusted its books in accordance with the Commission's decision?

**Recommendation:** Yes. Orange Land should be required to notify the Commission in writing, that it has adjusted its books in accordance with the Commission's decision. Orange Land should submit a letter within 90 days of the final order in this docket, confirming that it has made the adjustments to all applicable National Association of Regulatory Commissioners (NARUC) Uniform System of Accounts (USOA). In the event the Utility needs additional time to complete the adjustments, notice should be provided within seven days prior to the deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days. (Frank)

**Staff Analysis:** Orange Land should be required to notify the Commission in writing, that it has adjusted its books in accordance with the Commission's decision. Orange Land 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 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 within seven days prior to the deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days.

Date: July 26, 2018

**Issue 13:** 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 the utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once these actions are complete, this 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. 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 the utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively.

<b>ORANGE LAND UTILITIES, LLC.</b> <b>TEST YEAR ENDED 09/30/2017</b> <b>SCHEDULE OF WATER RATE BASE</b>		<b>SCHEDULE NO. 1-A</b> <b>DOCKET NO. 20170230-WU</b>	
<b>DESCRIPTION</b>	<b>BALANCE PER UTILITY</b>	<b>STAFF ADJUSTMENTS TO UTIL. BAL.</b>	<b>BALANCE PER STAFF</b>
UTILITY PLANT IN SERVICE	\$52,241	\$8,898	\$61,139
LAND & LAND RIGHTS	1,000	0	1,000
ACCUMULATED DEPRECIATION	(44,378)	10,086	(34,292)
CIAC	(7,350)	0	(7,350)
AMORTIZATION OF CIAC	6,222	(54)	6,168
WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>2,716</u>	<u>2,716</u>
RATE BASE	<u>\$7,735</u>	<u>\$21,646</u>	<u>\$29,381</u>

<b>ORANGE LAND UTILITIES, LLC.</b>		<b>SCHEDULE NO. 1-B</b>
<b>TEST YEAR ENDED 09/30/2017</b>		<b>DOCKET NO. 20170230-WU</b>
<b>ADJUSTMENTS TO RATE BASE</b>		
<b>UTILITY PLANT IN SERVICE</b>		
1. To reflect an averaging adjustment.		\$866
2. To reflect pro forma plant additions and retirements.		<u>8,032</u>
Total		<u>\$8,898</u>
<b>ACCUMULATED DEPRECIATION</b>		
1. To reflect an averaging adjustment.		(\$825)
2. To reflect pro forma plant additions and retirements.		<u>10,911</u>
Total		<u>\$10,086</u>
<b>ACCUMULATED AMORTIZATION OF CIAC</b>		
To reflect an averaging adjustment.		<u>(\$54)</u>
<b>WORKING CAPITAL ALLOWANCE</b>		
To reflect 1/8 of test year O & M expenses.		<u>\$2,716</u>

<b>ORANGE LAND UTILITIES, LLC.</b> <b>TEST YEAR ENDED 09/30/2017</b> <b>SCHEDULE OF CAPITAL STRUCTURE</b>							<b>SCHEDULE NO. 2</b> <b>DOCKET NO. 20170230-WU</b>		
<b>CAPITAL COMPONENT</b>	<b>PER UTILITY</b>	<b>SPECIFIC ADJUST-MENTS</b>	<b>BALANCE BEFORE PRO RATA ADJUSTMENTS</b>	<b>PRO RATA ADJUST-MENTS</b>	<b>BALANCE PER STAFF</b>	<b>PERCENT OF TOTAL</b>	<b>COST</b>	<b>WEIGHTED COST</b>	
1. LONG-TERM DEBT	\$9,801	\$0	\$9,801	6,028	\$15,829	53.88%	6.88%	3.71%	
2. SHORT-TERM DEBT	0	0	0	0	0	0.00%	0.00%	0.00%	
3. PREFERRED STOCK	0	0	0	0	0	0.00%	0.00%	0.00%	
4. COMMON EQUITY	8,391	0	8,391	5,161	13,552	46.12%	10.32%	4.76%	
5. CUSTOMER DEPOSITS	0	0	0	0	0	0.00%	2.00%	0.00%	
6. DEFERRED INCOME TAXES	<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>	
7. <b>TOTAL CAPITAL</b>	<u>\$18,192</u>	<u>\$0</u>	<u>\$18,192</u>	<u>\$11,189</u>	<u>\$29,381</u>	<u>100.00%</u>		<u>8.46%</u>	
<b>RANGE OF REASONABLENESS</b>						<b><u>LOW</u></b>	<b><u>HIGH</u></b>		
RETURN ON EQUITY						<u>9.32%</u>	<u>11.32%</u>		
OVERALL RATE OF RETURN						<u>8.00%</u>	<u>8.93%</u>		

ORANGE LAND UTILITIES, LLC.				SCHEDULE NO. 3-A	
TEST YEAR ENDED 09/30/2017				DOCKET NO. 20170230-WU	
SCHEDULE OF WATER OPERATING INCOME					
	TEST YEAR PER UTILITY	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1.OPERATING REVENUES	<u>\$22,351</u>	<u>\$266</u>	<u>\$22,617</u>	<u>\$5,110</u> 22.60 %	<u>\$27,727</u>
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$25,582	(\$3,569)	\$22,013	\$0	\$22,013
3. DEPRECIATION (NET)	751	422	1,173	0	1,173
4. TAXES OTHER THAN INCOME	<u>1,943</u>	<u>(118)</u>	<u>1,825</u>	<u>230</u>	<u>2,055</u>
5.TOTAL OPERATING EXPENSES	<u>\$28,276</u>	<u>\$3,266</u>	<u>\$25,010</u>	<u>\$230</u>	<u>\$25,240</u>
6.OPERATING INCOME/(LOSS)	<u>(\$5,925)</u>		<u>(\$2,393)</u>		<u>\$2,487</u>
7.RATE BASE	<u>\$7,735</u>		<u>\$29,381</u>		<u>\$29,381</u>
8.RATE OF RETURN	(76.60%)		(8.15 %)		<u>8.46 %</u>



**ORANGE LAND UTILITIES, LLC.**  
**TEST YEAR ENDED 09/30/2017**  
**ADJUSTMENTS TO OPERATING INCOME**

**Schedule No. 3-B**  
**Docket No. 20170230-WU**  
**Page 1 of 1**

**OPERATING REVENUES**

To reflect the appropriate test year revenues. \$266

**OPERATION AND MAINTENANCE EXPENSES**

1. Salaries & Wages – Employees (601)
  - a. To reflect test year adjustment to salaries and wages – employee expense. (\$3,418)
  - b. To reflect pro forma increase to salaries and wages – employee expense. \$1,280
  - Total (\$2,138)
2. Salaries & Wages – Officers (603)
  - a. To remove out of period salaries and wages expense. (\$900)
  - b. To reflect test year adjustment associated with allocations. (\$726)
  - c. To reflect pro forma increase to salaries and wages – officer expense. \$193
  - Total (\$1,433)
3. Employee Pensions & Benefits (604)
  - a. To reflect appropriate amount of employee pensions & benefits expense (\$176)
4. Purchased Power (615)
  - a. To reflect appropriate amount of purchased power expense. (\$5)
5. Insurance Expense (655)
  - a. To reflect appropriate amount of insurance expense. (\$265)
6. Regulatory Commission Expense (665)
  - a. To reflect amortization of rate case expense. \$284

**TOTAL OPERATION AND MAINTENANCE ADJUSTMENTS** (\$3,569)

**DEPRECIATION EXPENSE**

To reflect appropriate pro forma depreciation expense. \$728

**TAXES OTHER THAN INCOME**

1. To reflect the appropriate test year RAFs. \$12
2. To reflect pro forma property tax. 121
3. To reflect real property tax. (53)
4. To reflect payroll tax. (\$198)
- Total (\$118)

ORANGE LAND UTILITIES, LLC.		SCHEDULE NO. 3-C	
TEST YEAR ENDED 09/30/2017		DOCKET NO. 20170230-WU	
ANALYSIS OF WATER OPERATION AND MAINTENANCE EXPENSE			
	TOTAL PER UTILITY	STAFF ADJUST- MENT	TOTAL PER STAFF
(601) SALARIES AND WAGES - EMPLOYEES	\$8,116	(\$2,139)	\$5,977
(603) SALARIES AND WAGES - OFFICERS	3,553	(1,433)	2,120
(604) EMPLOYEE PENSIONS AND BENEFITS	958	(176)	782
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	826	(5)	821
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	0	0	0
(620) MATERIALS AND SUPPLIES	474	0	474
(630) CONTRACTUAL SERVICES - BILLING	0	0	0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	473	0	473
(633) CONTRACTUAL SERVICES - LEGAL	0	0	0
(635) CONTRACTUAL SERVICES - TESTING	465	0	465
(636) CONTRACTUAL SERVICES - OTHER	3,460	0	3,460
(640) RENTS	756	0	756
(650) TRANSPORTATION EXPENSE	1,228	0	1,228
(655) INSURANCE EXPENSE	1,624	(265)	1,359
(657) INSURANCE - GENERAL LIABILITY	0	0	0
(665) REGULATORY COMMISSION EXPENSE	0	284	284
(670) BAD DEBT EXPENSE	0	164	164
(675) MISCELLANEOUS EXPENSE	<u>3,649</u>	<u>0</u>	<u>3,649</u>
	<u>\$25,582</u>	<u>(\$3,569)</u>	<u>\$22,013</u>

<b>ORANGE LAND UTILITIES, LLC.</b> <b>TEST YEAR ENDED SEPTEMBER 30, 2017</b> <b>MONTHLY WATER RATES</b>		<b>SCHEDULE NO. 4</b> <b>DOCKET NO. 20170230-WU</b>	
	<b>RATES AT TIME OF FILING</b>	<b>STAFF RECOMMENDED RATES</b>	<b>4 YEAR RATE REDUCTION</b>
<b><u>Residential and General Service</u></b>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$14.91	\$13.99	\$0.15
3/4"	\$22.37	\$20.99	\$0.23
1"	\$37.28	\$34.98	\$0.38
1-1/2"	\$74.55	\$69.95	\$0.75
2"	\$119.28	\$111.92	\$1.20
3"	\$238.56	\$223.84	\$2.40
4"	\$372.75	\$349.75	\$3.75
6"	\$745.50	\$699.50	\$7.50
Charge per 1,000 gallons - Residential and General Service			
0-5,000 gallons	\$2.15		
Over 5,000 gallons	\$3.17		
Charge per 1,000 gallons - Residential Service			
0-4,000 gallons		\$4.09	\$0.04
Over 4,000 gallons		\$4.77	\$0.05
Charge per 1,000 gallons - General Service		\$4.31	\$0.05
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>			
4,000 Gallons	\$23.51	\$30.35	
8,000 Gallons	\$35.17	\$49.43	
10,000 Gallons	\$41.51	\$58.97	

# 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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Merryday, Draper)  
Office of the General Counsel (Mapp)

**RE:** Docket No. 20180088-EI – Petition for limited proceeding for approval of a smart meter opt-out tariff, by Duke Energy Florida, LLC.

**AGENDA:** 08/07/18 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 12/04/18 (8-Month Effective Date)

**SPECIAL INSTRUCTIONS:** None

RECEIVED-FPSC  
2018 JUL 26 AM 10:34  
COMMISSION  
CLERK

### Case Background

On April 4, 2018, Duke Energy Florida, LLC (Duke or utility) filed a petition for a limited proceeding for approval of a smart meter opt-out tariff (opt-out tariff). The proposed tariff would be available to customers who elect to receive a non-communicating meter in lieu of the standard smart meter, or Automated Meter Infrastructure (AMI) smart meter.

On November 11, 2017, the Commission approved Duke's 2017 Second Revised and Restated Settlement Agreement (2017 Settlement), which includes a provision for a 15-year depreciable life for new AMI assets.<sup>1</sup> On October 25, 2017, the Commission held a hearing to consider the 2017 Settlement. At the hearing, Duke witness Portuondo testified that the base rate adjustments contained in the 2017 Settlement include AMI smart meters to be deployed by 2021 and a

<sup>1</sup> Order No. PSC-2017-0451-AS-EU, issued November 20, 2017, in Docket No. 20170183-EI; *In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC.*

replacement of Duke's customer information system, or billing system, to maximize the benefits of the AMI smart meters and provide customers with better tools to manage their consumption. At the hearing, witness Portuondo also stated that Duke will file an opt-out tariff, which Duke has done with the instant petition.<sup>2</sup>

Consistent with the testimony provided during the 2017 Settlement hearing, the utility states in the instant petition that smart meter deployment for residential and general service (small commercial) customers is set to begin in November 2018. Upon completion of the deployment, expected by December 2021, smart meters will become Duke's standard meter. Associated with the AMI project is meter communication infrastructure needed to enable communication with the meters and Duke's information technology system.

Duke's current meters are Automated Meter Reading (AMR) meters that emit a radio frequency signal. That signal is picked up once a month by a meter reading vehicle driving by the neighborhood. Duke installed the AMR meters in 2005 and 2006 and states that at the time there was no public opposition to the AMR meter deployment. In the last five years, Duke received a small number of complaints regarding radio frequency transmission, which is similar between the AMR and AMI smart meters. In all complaints so far, the AMR meter was retained as Duke does not have an opt-out tariff. However, Duke stated some customers specifically requested an opt-out option and a meter that emits no radio frequency signal.

The utility anticipates that some customers will elect to forego the new AMI smart meters and request a non-communicating meter; therefore, Duke filed the instant petition and associated opt-out tariff. The opt-out tariff would be applicable to customers that request a non-communicating, i.e., non-standard, meter and includes an initial one-time set-up fee of \$96.34 and a monthly surcharge of \$15.60. The proposed charges are based on Duke's incremental costs to provide the opt-out tariff.

The Commission approved a similar opt-out tariff and charges (\$89.00 one-time set-up fee, \$13.00 monthly surcharge) for Florida Power & Light Company (FPL) in 2015.<sup>3</sup> Several municipal electric utilities (City of Lakeland and Orlando Utilities Commission) and rural electric cooperatives (Sumter Electric, Talquin Electric, Tri-County Electric, and Peace River) also provide optional opt-out tariffs.

On April 18, 2018, Duke waived the 60-day file and suspend provision per Section 366.06(3), Florida Statutes (F.S.) On May 3, June 4, June 20, and July 17, 2018, Duke responded to staff's data requests. On May 23, 2018, Duke provided revised tariff sheets reflecting a minor correction. On July 23, 2018, Duke provided revised tariff sheet No. 6.400 to include language that an opt-out customer who already has a non-communicating meter installed would not be required to pay the \$96.34 one-time set up fee. The legislative version of the revised opt-out

---

<sup>2</sup> Document No. 09411-2017, filed on November 3, 2017, in Docket No. 20170183-EI.

<sup>3</sup> Order No. PSC-15-0026-FOF-EI, issued on January 7, 2015, in Docket No. 130223-EI; *In re: Petition for approval of optional non-standard meter rider, by Florida Power & Light Company.*

Docket No. 20180088-EI

Date: July 26, 2018

tariff sheet No. 6.400 is shown in Attachment A to the recommendation.<sup>4</sup> The Commission has jurisdiction pursuant to Sections 366.03, 366.04, 366.05, and 366.06, F.S.

---

<sup>4</sup> Duke's petition included other non-substantive tariff changes that have not been attached to the recommendation.

## Discussion of Issues

**Issue 1:** Should the Commission approve Duke's proposed opt-out tariff?

**Recommendation:** Yes, the Commission should approve Duke's proposed opt-out tariff. The effective date should be on the first billing cycle of December 2018. Within three months after the AMI smart meter deployment is completed, Duke should report to the Commission (with a filing in this docket) on the costs of the program, revenues, and actual participation. (Merryday)

**Staff Analysis:** Duke is offering this opt-out tariff ahead of AMI deployment after reviewing the experiences of other utilities with their customers and smart meters. In its petition, the utility states that FPL began deploying smart meters in 2010, but received customer complaints regarding smart meters and subsequently filed a petition for an opt-out tariff in August 2013. Duke notes that because it is not required to offer an alternative meter, all costs associated with the non-standard meters will be recovered from the participating customers.

The proposed tariff includes two separate fees: a one-time set-up fee of \$96.34 (for the non-standard meter installation) and a monthly surcharge of \$15.60 (for upfront IT costs and monthly meter readings). The set-up fee must be paid at the time the customer takes service under the opt-out tariff, regardless of the length of time the customer is enrolled. Customers can cancel service under the opt-out tariff at any time. These charges will be in addition to all other tarified rates and charges applicable to an opt-out customer.

### Customer Participation

Duke anticipates that approximately 0.15 percent of its AMI eligible customers will choose to opt out. The utility examined FPL's opt-out tariff participation rates as the basis for its own participation predictions. Duke states that FPL originally forecasted that 0.26 percent of its 4.9 million customers would participate when developing an opt-out tariff; however, actual participation for FPL in 2017 was about 0.12 percent, or 5,966 customers. Duke rounded up to predict that 0.15 percent—about 2,700— of its 1.8 million eligible customers will opt-out. The projected number of opt-out customers is used in developing the monthly surcharge.

### Set-up Fee

The one-time set-up fee of \$96.34 reflects the labor and vehicle costs to install each non-standard meter. In response to staff's data request, Duke stated that it is not creating any new positions to perform the incremental tasks associated with administering the opt-out tariff. However, Duke further stated that in the absence of the opt-out tariff, the current staffing of these positions may have been reduced.

The set-up fee is applicable to all opt-out tariff participants regardless of duration of service. The breakdown of the set-up fee components is as follows:



**Table 1-1  
Set-up Fee Cost Components**

Task	Time Per Customer	Cost Per Customer	Description
Customer service	3 minutes	\$1.40	Customer Care Specialist to handle calls and enrollment in opt-out tariff, explain tariff details, and set up customer's account as an opt-out customer.
Metering services work order management	5 minutes	\$2.93	Work Force Management Specialist II to create initial work orders for opt-out meter programming, meter exchange, and manual meter routing.
Meter programming and labelling	30 minutes	\$29.09	Field Meter Tech to program the opt-out meter and apply opt-out label to help ensure an opt-out meter is not replaced with an AMI smart meter. This work is performed at a Duke lab.
Meter exchange	45 minutes	\$43.63	Field Meter Tech to travel to customer premises, remove existing meter, replace with opt-out meter, and close work orders.
Meter exchange - vehicle	45 minutes	\$4.61	Vehicle used by Field Meter Tech for meter exchange. The cost is based on Duke's cost to operate the vehicle used by field technicians.
Manual meter reading route analysis	20 minutes	\$14.68	Meter Route Analyst to determine location of opt-out participant and find efficient meter reading route.
Total one-time cost per customer		\$96.34	

Source: Exhibit A to Duke's Petition

Duke explained that the time per customer is based on a conservative average time estimate for the specific tasks to be performed. Staff believes the time estimates to be reasonable. The cost per customer is calculated by multiplying the time to complete the task by the hourly rate of the job performer. Duke provided cost support for its hourly rates which includes the confidential annual salary, payroll tax, benefits, pension, and incentives (bonus payments). Staff reviewed hourly rate information provided by Duke in its 2009 rate case for customer service and field labor and believes the hourly rates included in this docket are reasonable. Furthermore, Duke's salaries are comparable to those approved for FPL's opt-out charges.

In response to staff's data request, Duke clarified that if an opt-out customer already has a non-communicating meter installed at the premises, the customer would not be required to pay the \$96.34 one-time set up fee as Duke would not incur the cost for the non-standard meter installation. This provision was not reflected in the original opt-out tariff filed by Duke; therefore, Duke filed a revised tariff to clearly state when the one-time fee would not be assessed.

### **Monthly Surcharge**

The monthly surcharge to take service under the opt-out tariff is \$15.60, which reflects a combination of upfront (IT related) and ongoing (meter reading related) service costs. Duke states that its upfront IT costs are predicted to be \$374,014. This is the estimated cost to update the customer system and change business processes to accommodate the opt-out tariff program. Duke used a 5-year recovery period for its IT costs (which is the same recovery period the Commission approved for FPL's opt-out tariff) to derive monthly IT related costs of \$4.58 per customer.

After installation of a non-standard meter, the only ongoing costs to the utility will be the monthly meter readings, which the utility estimates to be \$11.02 per customer. These costs reflect the meter reading position rates and the vehicle rates, both for an estimated 20 minutes per meter reading. In response to staff's data request, Duke stated that assuming that opt-out customers are spread across the utility's service territory, it is estimated to take 20 minutes to travel to the customer premises, get out of the vehicle, read the meter, log the read, and return to the vehicle to continue on the route.

### **Customer Notice and Deployment**

The utility states that AMI deployment is set to begin November 2018; therefore, Duke is requesting that the opt-out tariff be available the first billing cycle of December 2018. Two weeks prior to a customer receiving a smart meter, Duke will mail a postcard to the customer informing them of the meter exchange and providing more information on smart meters. The postcard will include a toll-free number to call for questions regarding smart meters and the option to opt out. Information regarding smart meter deployment and the opt-out tariff will also be on the utility's website.

### **Reporting**

Staff recommends that within three months after the AMI smart meter deployment is completed (December 2021), Duke should report to the Commission on the costs of the program, revenues, and actual participation. Staff believes three months is a reasonable time to allow Duke to prepare and file a report in this docket, which should happen no later than March 31, 2022. If AMI smart meter deployment is significantly delayed beyond the utility's anticipated completion date, the utility should notify the Commission with a filing in this docket.

Staff notes that FPL is required to file annual smart meter progress reports. Duke, in response to staff's data request, stated that it does not believe a formal process of tracking costs is necessary. However, staff believes that actual participation rates and costs may vary, and that a comparison of estimated costs presented in this petition and actual costs incurred is important to ensure the opt-out tariff remains cost-based or else be adjusted through a revised tariff filing.

### **Conclusion**

Staff believes that the incremental costs to offer the proposed opt-out tariff should be recovered by the participating customers. In the order approving FPL's opt-out tariff, the Commission noted that "since significant incremental costs would be incurred in providing [an opt-out tariff], it would be discriminatory to require standard meter customers to subsidize that service."<sup>5</sup> Staff believes that Duke provided sufficient cost support in its petition and responses to staff's data requests to support its assertion that the proposed tariff is cost-based. Therefore, the Commission should approve Duke's proposed opt-out tariff. The effective date should be on the first billing cycle of December 2018. Within three months after the AMI smart meter deployment is completed, Duke should report to the Commission (with a filing in this docket) on the costs of the program, revenues, and actual participation.

---

<sup>5</sup> *Id.*

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If a protest is filed within 21 days of the issuance of the order, these tariffs should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon issuance of a consummating order. (Mapp)

**Staff Analysis:** If a protest is filed within 21 days of the issuance of the order, these tariffs should remain in effect with any increase held subject to refund pending resolution of the protest. If no timely protest is filed, this docket should be closed upon issuance of a consummating order.



SECTION NO. VI  
ORIGINAL SHEET NO. 6.400

**RATE SCHEDULE NSMR-1**  
**Optional - Non-Standard Meter Rider (AMI Opt-Out)**

**Availability:**

Available throughout the entire territory served by the Company.

**Applicable:**

This optional Rider is available to customers who request a meter that either does not utilize radio frequency communications to transmit data, or is otherwise required to be read manually provided that such a meter is available for use by the Company. At the Company's option, meters to be read manually may be either a smart meter with the radio frequency communication capability disabled or other non-communicating meter. The meter manufacturer and model chosen to service the customer's ("Opt-Out Customer") premise are at the discretion of the Company and are subject to change at the Company's option at any time.

**Character of Service:**

Electric energy supplied hereunder must meet the Character of Service and usage specifications consistent with service under the Opt-Out Customer's otherwise applicable tariff.

**Rate:**

Initial Set-Up Fee (one-time service fee)	\$ 96.34
Rate per month	\$ 15.60

All charges and provisions of the Opt-Out Customer's otherwise applicable rate schedule shall also apply.

**Limitation of Service:**

This Rider is not available to Net Metering customers or customers participating in the *FixedBill* program. This Rider is also not available to customers who have tampered with the electric meter service or used service in a fraudulent or unauthorized manner, at the current or any prior location. Service under this Rider is subject to orders of governmental bodies having jurisdiction and to the currently effective "General Rules and Regulations Governing Electric Service" on file with the Florida Public Service Commission.

**Term of Service:**

Not less than one (1) billing period. The Company reserves the right to terminate this Rider at any time upon notice to the Customer for violation of any of the terms or conditions of this Rider.

**Special Provisions:**

Customers taking service under this Rider relocating to a new premise who wish to continue service under this Rider are required to request new service under this Rider including payment of the Initial Set-Up Fee at the new premise, except in the instance where the previous customer at that premise had an approved non-communicating meter already in place. Customers wishing to take service under this Rider and relocating to a premise where an existing approved non-communicating meter is already in place, will not be required to pay the Initial Set-Up Fee. Customers who cancel service under this Rider and then later re-enroll for this service at any location would be required to submit another Initial Set-Up Fee.

**ISSUED BY:** Javier J. Portuondo, Managing Director Rates & Regulatory Strategy – FL

**EFFECTIVE:**

# 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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Doherty) *RD EJD*  
Office of the General Counsel (Schrader) *PD JAH JSC*

**RE:** Docket No. 20180127-EI – Petition for approval of temporary territorial variance, by Tampa Electric Company.

**AGENDA:** 08/07/18 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Brown

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

RECEIVED-FPSC  
2018 JUL 26 AM 10:35  
COMMISSION  
CLERK

### Case Background

On June 1, 2018, Tampa Electric Company (TECO) filed a petition for approval of a temporary territorial variance (variance). The variance will enable TECO to provide temporary electric service to Mosaic Fertilizer, LLC's (Mosaic) Four Corners South mining facility outside TECO's approved service territory. TECO is an investor-owned public utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes (F.S.). Mosaic is in the business of mining and processing phosphate and manufacturing fertilizer.

Pursuant to a territorial agreement the Commission approved between Duke Energy Florida, LLC<sup>1</sup> (Duke) and Peace River Electric Cooperative (PRECO), the Four Corners South facility is

<sup>1</sup> In 1994, Duke was known as Florida Power Corporation. Subsequently, Florida Power Corporation changed its name to Progress Energy Florida, Inc. in 2003, to Duke Energy Florida, Inc. in 2013, and to Duke Energy Florida, LLC in 2015.

served by Duke.<sup>2</sup> This 1994 territorial agreement approved Duke's right to serve transmission level customers, such as Mosaic, in PRECO's service territory because PRECO did not have the appropriate facilities to meet Mosaic's transmission level electric needs. The instant petition requests that TECO, instead of Duke, provide temporary service to Mosaic's Four Corners South facility until Duke completes construction of a new transmission line in the region.

TECO and Duke responded to staff's first data request on July 16, 2018. The map and legal description of the Four Corners South facility are attached to the petition in Exhibits A and B. Florida Power & Light Company (FPL), Duke, and PRECO's consent to the approval of the proposed variance are shown in Exhibit C of the petition. FPL also has the ability to serve Mosaic; however, FPL does not have transmission facilities that can serve the Four Corners South facility and would need to invest in system upgrades. Therefore, FPL provided their consent to the proposed variance.

In 2017, the Commission approved a similar temporary territory variance allowing TECO to provide electric service to Mosaic's Peacock mining facility in Manatee County, while Duke constructs a new transmission line to accommodate Mosaic's mining operations and eliminate voltage issues in the area.<sup>3</sup> The Commission has jurisdiction pursuant to Section 366.04, F.S.

---

<sup>2</sup> Order No. PSC-94-1522-FOF-EI, issued December 12, 1994, in Docket No 940376-EU, *In re: Joint petition for approval of territorial agreement between Florida Power Corporation and Peace River Electric Cooperative, Inc.*

<sup>3</sup> Order No. PSC-2017-0385-PAA-EI, issued October 9, 2017, in Docket No. 20170181-EI, *In re: Petition for expedited approval of temporary territorial variance, by Tampa Electric Company.*



## Discussion of Issues

**Issue 1:** Should the Commission approve TECO's petition for a temporary territorial variance?

**Recommendation:** Yes. The petition for the approval of a temporary territorial variance is in the public interest and should be approved. During the period of its retail electric service to the Four Corners South facility in Hardee County, TECO should report to the Commission on an annual basis regarding the status of such temporary service through its conclusion. TECO should file its first status report in the docket file in August 2019, or sooner if concluded. (Doherty)

**Staff Analysis:** The proposed variance addresses the supply of electric service to Mosaic's Four Corners South facility located in rural northern Hardee County, Florida. The Four Corners South facility is an industrial phosphate mining operation and associated pump operation. The facility takes service at 69 kV transmission level. Once the mining has been completed in a particular area, the facility moves to another mining location.

The Four Corners South facility will be adding approximately 70 megawatts of load. Duke expects that this increase in load will cause adverse voltage effects on Duke and on PRECO's facilities. Both Duke and PRECO are served from the same transmission line that serves the Four Corners South facility. Mosaic expects the mining activity to cause the adverse voltage beginning October 1, 2018. Duke states that it will be able to serve this additional mining load, without adverse voltage effects, once the new 230 kV line and substation are completed in May 2019.

TECO asserts in the petition that it can provide immediate electric service to the Four Corners South facility from an existing meter located within TECO's electric service territory just over the Manatee/Hillsborough County border in Hillsborough County. TECO also stated that it has sufficient capacity to serve the load. The Four Corners South facility is located 10 miles from TECO's facilities and Mosaic will reimburse TECO for any upgrades needed to provide temporary power service to Mosaic's mining operations. Mosaic owns transmission facilities behind TECO's meter.

TECO states that it is prepared to serve this load beyond May 2019, if Duke is not finished with constructing the 230 kV line. TECO will file a final status report with the Commission to indicate that TECO is no longer providing service to the Four Corners facility.

## Conclusion

Based on the assertions made in the petition, staff believes that the proposed variance will not cause a decrease in reliability of electric service to TECO and the adjacent utilities (FPL, PRECO, and Duke). Staff recommends that TECO's petition for a temporary territorial variance is in the public interest and should be approved. During the period of its retail electric service to the Four Corners South facility, TECO should report to the Commission on an annual basis regarding the status of such temporary service through its conclusion. TECO should file its first status report in the docket file in August 2019, or sooner if concluded.

**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. (Schrader)

**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 up on 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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer) *EDH*

**FROM:** Division of Economics (Guffey, Merryday, Coston) *HM*  
Office of the General Counsel (Schrader, Crawford) *SKG, WKC, JSD*

**RE:** Docket No. 20180117-GU – Petition for approval of tariff modifications for use of natural gas for gas heat pumps by customers, by Peoples Gas System.

**AGENDA:** 08/07/18 – Regular Agenda – Tariff Filing – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 01/09/19 (8-Month Effective Date)

**SPECIAL INSTRUCTIONS:** None

---

RECEIVED-FPSC  
2018 JUL 26 AM 10:35  
COMMISSION  
CLERK

### Case Background

On May 9, 2018, Peoples Gas System (Peoples or utility) filed a petition for approval of tariff modifications for the use of natural gas for gas heat pumps. The proposed tariff modifications would provide new tariff provisions and charges applicable to residential and commercial customers utilizing gas heat pump (GHP) systems. A GHP system heats and cools a building using natural gas. The legislative version of the proposed tariffs is shown as Attachment A to this recommendation.

Staff issued two data requests to Peoples on May 22 and on June 12, 2018, for which responses were received on June 5 and on June 26, 2018, respectively. During the review period, Peoples submitted revised tariff sheet Nos. 7.201, 7.405, and 7.405-1 to correct certain errors. Peoples waived the 60-day file and suspend provision of Section 366.06(3), Florida Statutes (F.S.). The Commission has jurisdiction over this matter pursuant to Section 366.04, F.S.

## Discussion of Issues

**Issue 1:** Should the Commission approve Peoples' petition to modify its tariffs shown in Attachment A for the use of natural gas for GHP systems?

**Recommendation:** Yes. The Commission should approve Peoples' petition to modify its tariffs shown in Attachment A for the use of natural gas for GHP systems. The proposed tariffs should become effective on August 7, 2018. (Guffey, Merryday)

**Staff Analysis:** Peoples' proposed tariff modifications provide new residential and commercial tariff provisions and charges for the use of GHP systems. The proposed new GHP charges are based upon the cost of providing service and anticipated GHP customer gas usage. The GHP technology and proposed charges are discussed below.

### Gas Heat Pump Technology

Peoples explained that the GHP technology is new to Florida and that there is a growing interest in the use of GHPs, particularly from commercial customers. There are two types of GHP systems: (1) a basic GHP system that utilizes a natural gas powered engine to drive the compressor for either cooling or heating a building and (2) a power producing GHP system that includes internal back-up electric generation ability and can fully operate during electric power loss. Peoples stated that it had communications with GHP manufacturers and inquiries from residential and commercial customers, prompting Peoples to develop the proposed tariffs to serve GHP load.

Peoples stated that the GHP technology provides for increased energy efficiency when compared to traditional electric heating, ventilation, and air conditioning (HVAC) systems. The GHP systems can be installed during construction or as a retrofit to existing buildings. Peoples currently offers a Commission-approved gas space conditioning program which offers piping and venting allowances to reduce the generally higher cost of installing gas space conditioning equipment. However, Peoples' Energy Conservation Cost Recovery (ECCR) clause docket filings from 2009 to 2017 indicate that no customers have utilized the allowance.

In response to staff's first data request, Peoples explained that the installed cost for a GHP system ranges between \$4,400 and \$8,000 per ton, based on individual design and manufacturer. Peoples stated that an 8-ton system is expected to satisfy the heating and cooling needs of a 4,000-4,800 square foot house, and expects that customers with larger houses are more likely to install a GHP system. Peoples stated that currently three GHP manufacturers are available Peoples' customers: M Trigen, Yanmar, and Blue Mountain.

### Proposed Residential and Commercial GHP Tariffs and Charges

#### **Residential Customers**

For residential customers utilizing a GHP system, the proposed new GHP charges are shown on tariff sheet No. 7.201 (Attachment A, page 4). Current residential customer charges are based on annual usage, with a \$20 customer charge applying to large residential customers (RS-3 billing class using 250-1,999 therms per year). The current distribution charge is \$0.26782 per therm.

Residential customers in the proposed new RS-GHP billing class will pay a monthly customer charge of \$20 and a distribution charge of \$0.0999 per therm. The lower RS-GHP distribution charge reflects the increased natural gas consumption of a GHP customer compared to a residential customer who consumes natural gas for traditional gas appliances only. In addition to the customer and distribution charges, all residential customers pay Commission-approved ECCR and Cast Iron Bare Steel Replacement Rider clause charges.

Residential customers who have traditional gas appliances and a GHP system would be billed for all their natural gas usage at the GHP rate. Peoples explained that by not metering and billing residential GHP usage separately, the utility can reduce unnecessary metering costs.

The derivation of the proposed new RS-GHP \$0.0999 per therm distribution charge is shown in response to staff's first data request No. 17.<sup>1</sup> The RS-GHP distribution charge is formulated using a weighted average of (1) the projected cost to provide service to customers who only have a GHP system and (2) the currently approved cost to provide service to customers with only traditional gas appliances. This ensures that GHP customers pay the costs associated with natural gas service, since the RS-GHP distribution charge would apply to GHP usage and any other natural gas appliance(s) the customer may have.

To develop the projected cost to provide service to GHP systems, Peoples utilized the cost of service study approved in the utility's 2008 rate case<sup>2</sup> (the utility's most recent rate case) and projected residential GHP usage. Based on information provided by GHP manufacturers, Peoples projects that a residential 8-ton GHP system would use 160 therms per month. Average monthly residential consumption for Peoples' customers without a GHP system is approximately 18 therms.

Currently, residential customers with consumption in excess of 1,999 therms per year are eligible for gas transportation service. Under transportation service, the customer purchases the natural gas commodity from a pool manager (third party marketer). Residential customers taking service under the GHP rate will also qualify for transportation service if they use more than 1,999 therms per year.

### **Commercial Customers**

For commercial GHP customers, Peoples proposed a new Commercial Gas Heat Pump Service (CS-GHP) rate schedule as shown on tariff sheet Nos. 7.405 and 7.405-1 (Attachment A, pages 6-7). The proposed CS-GHP monthly customer charge is \$35 and the proposed per therm distribution charge is \$0.2063. In comparison, the current the GS-1 distribution charge is \$0.2680 per therm. The derivation of the proposed CS-GHP charges is shown in Exhibit B to the petition.

The proposed CS-GHP customer charge is set at the same level as the currently approved GS-1 customer charge (\$35). To calculate the CS-GHP distribution charge, Peoples utilized the cost of

---

<sup>1</sup> The calculation was included in Exhibit A to the petition; however, Peoples submitted a revised calculation to correct a minor error in response to staff's first data request No. 17.

<sup>2</sup> Order No. PSC-10-0208-S-GU, issued April 5, 2010, in Docket No. 080318-GU, *In re: Petition for rate increase by Peoples Gas System*.

service study approved in the utility's 2008 rate case and projected commercial GHP natural gas usage. Based on the information provided by GHP manufacturers, Peoples projects that a commercial GHP system would use 627 therms per month.

Under the CS-GHP rate schedule, the gas provided for GHP usage will be separately metered from other natural gas usage and will be a separate item on customer bills. The utility proposes separate GHP metering for commercial customers to ensure that the reduced GHP distribution charge is applied only to GHP consumption, as non-GHP natural gas usage varies significantly for commercial customers. In addition, GHP use by commercial customers could vary depending on the type of customer and size of GHP equipment installed.

Peoples explained that the types of commercial customers who could take gas service under the CS-GHP tariff would include senior living facilities, nursing homes, convenience stores, restaurants, or office buildings. In addition to customer and distribution charges, CS-GHP customers would pay all other Commission-approved cost recovery clause charges (Purchased Gas Adjustment, ECCR, Swing Service Charge, Competitive Rate Adjustment, and Cast Iron Bare Steel Replacement Rider). CS-GHP customers would pay the same cost recovery clause charges as those approved for the commercial GS-1 rate schedule.<sup>3</sup>

### **Customer Notification**

The utility proposes to inform its customers of the availability of the new heating/cooling options via public relations outreach, advertising, bill inserts, and on the utility's website. Peoples' sales team will communicate with specific commercial and industrial customers and with distributors, installers, and service contractors to inform them of the availability of the GHP technology. Peoples stated that the utility will provide a copy of its customer notifications to staff prior to use.

### **Conclusion**

Based on the petition and responses to staff's data request, staff believes the proposed GHP tariffs are cost-based. Therefore, the Commission should approve Peoples' petition to modify its tariffs shown in Attachment A for the use of natural gas for GHP systems. The proposed tariffs should become effective on August 7, 2018.

---

<sup>3</sup> Proposed tariff sheet No. 7.101-3 also adds the Swing Service Charge for the Commercial Standby Generator rate class, which was approved in Order PSC-07-0530-TRF-GU. The utility states that this charge was inadvertently left off of the tariff sheet, therefore, the utility is including it at this time.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If Issue 1 is approved, the tariffs should become effective on August 7, 2018. If 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, the docket should be closed upon the issuance of a consummating order. (Schrader, Crawford)

**Staff Analysis:** Yes. If Issue 1 is approved, the tariffs should become effective on August 7, 2018. If 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, the docket should be closed upon the issuance of a consummating order.



Peoples Gas System  
a Division of Tampa Electric Company  
Original Volume No. 3

~~Eighth-Ninth~~ Revised Sheet No. 7.000  
Cancels ~~Seventh-Eighth~~ Revised Sheet No. 7.000

## INDEX OF RATE SCHEDULES

	<u>SHEET NO.</u>
<b>GENERAL APPLICABILITY PROVISIONS:</b>	
A. Character of Service	7.101
B. Purchased Gas Adjustment Clause	7.101-1
C. Energy Conservation Cost Recovery Adjustment Clause	7.101-2
D. Swing Service Charge	7.101-3
E. RESERVED FOR FUTURE USE	7.101-4
F. Tax and Fee Adjustment Clause	7.101-5
G. Competitive Rate Adjustment Clause	7.101-5
H. Conditions for Transportation of Customer-Owned Gas	7.101-7
I. Main Extension Program	7.101-7

## RATE SCHEDULES

<b>RESIDENTIAL RATES:</b>	
Residential Service (RS)	7.201
<b>GENERAL SERVICE RATES:</b>	
Small General Service (SGS)	7.301
General Service - 1 (GS-1)	7.302
General Service - 2 (GS-2)	7.303
General Service - 3 (GS-3)	7.303-2
General Service - 4 (GS-4)	7.303-4
General Service - 5 (GS-5)	7.304
Commercial Street Lighting Service (CSLS)	7.306
<b>SPECIAL FIRM GAS RATES:</b>	
Natural Gas Vehicle Service-1 (NGVS-1)	7.401
Natural Gas Vehicle Service-2 (NGVS-2)	7.401-2
Natural Gas Vehicle Service-3 (NGVS-3)	7.401-4
Residential Standby Generator Service (RS-SG)	7.402-1
Commercial Standby Generator Service (CS-SG)	7.403
Renewable Natural Gas Service (RNGS)	7.404
<u>Commercial Gas Heat Pump Service Rate Schedule (CS-GHP)</u>	<u>7.405</u>
<b>WHOLESALE RATES:</b>	
Wholesale Service - Firm (WHS)	7.501
<b>INTERRUPTIBLE RATES:</b>	
Small Interruptible Service (SIS)	7.601
Interruptible Service (IS)	7.603
Interruptible Service - Large Volume (ISLV)	7.605
Contract Interruptible Service (CIS)	7.607

Issued By: T. J. Szelistowski, President  
Issued On: ~~September 19, 2017~~ **16**

Effective: ~~December 12, 2017~~

Peoples Gas System  
a Division of Tampa Electric Company Cancels ~~Twentieth~~ Twenty-First Revised Sheet No. 7.101-2  
Original Volume No. 3

**GENERAL APPLICABILITY PROVISIONS (Continued)**

**C. ENERGY CONSERVATION COST RECOVERY ADJUSTMENT CLAUSE**

The bill for Gas and transportation service supplied to a retail Customer in any Billing Period shall be adjusted as follows:

Except as otherwise provided herein, each rate schedule shall be increased or decreased to the nearest \$0.00001 per therm and include the tax factor of 1.00503 for each Therm of consumption or transportation to recover the conservation related expenditures by the Company. The Company shall record both projected and actual expenses and revenues associated with the implementation of the Company's Energy Conservation Plan as authorized by the Commission. The procedure for the review, approval, recovery and recording of such costs and revenues is set forth in the Commission Rule 25-17.015, F.A.C.

The cost recovery factors for the period from meter readings taken on or after January 1, 2018 through the last billing cycle for December 2018 are as follows:

<u>Rate Class</u>	<u>Recovery Factor</u>
Residential	\$0.09921 per Therm
Residential Standby Generator	\$0.09921 per Therm
<u>Residential Gas Heat Pump Service</u>	<u>\$0.09921 per Therm</u>
Small General Service	\$0.05982 per Therm
Commercial Standby Generator	\$0.02985 per Therm
<u>Commercial Gas Heat Pump Service</u>	<u>\$0.02985 per Therm</u>
General Service - 1	\$0.02985 per Therm
General Service - 2	\$0.02174 per Therm
General Service - 3	\$0.01806 per Therm
General Service - 4	\$0.01336 per Therm
General Service - 5	\$0.00980 per Therm
Commercial Street Lighting	\$0.01577 per Therm
Natural Gas Vehicle Service	\$0.01844 per Therm

Pursuant to FPSC Order No. 23576, no conservation cost recovery factor shall be applied to Therms consumed or transported for use in a cogeneration facility, regardless of the rate schedule under which such Therms are consumed or transported by Company.

Issued By: T. J. Szelistowski, President  
Issued On: ~~November 16, 2017~~

Effective: January 1, 2018

Peoples Gas System  
a Division of Tampa Electric Company  
Original Volume No. 3

~~Fourth-Fifth~~ Revised Sheet No. 7.101-3  
Cancels ~~Third-Fourth~~ Revised Sheet No. 7.101-3

GENERAL APPLICABILITY PROVISIONS (Continued)

D. SWING SERVICE CHARGE

The Pool Manager of a Customer receiving aggregated transportation service from Company under the Natural Choice Transportation Service Rider (Rider NCTS) provides a fixed daily quantity of Gas supply and interstate pipeline transportation capacity throughout each month. The Company must increase or reduce the system's Gas supply and use of interstate pipeline capacity in an effort to balance the actual daily consumption of a Rider NCTS Customer as it differs from the fixed daily quantity of Gas being delivered by the Customer's Pool Manager during the month. The Swing Service Charge is assessed to firm Rider NCTS Customers to cover the costs incurred by the Company to maintain the above-described balance and distribution system integrity.

The bill for aggregated transportation service provided by Company to a firm Customer pursuant to Rider NCTS in any Billing Period shall be adjusted as follows:

The monthly consumption of each Rider NCTS Customer shall be multiplied by the Swing

Service Charge factors listed below, each factor being increased or decreased to the nearest \$0.0001 per therm and include the regulatory assessment tax factor of 1.00503:

<u>Rate Class</u>	<u>Recovery Factor</u>
<u>Residential Gas Heat Pump Service</u>	<u>\$0.0388 per Therm</u>
Small General Service	\$0.0388 per Therm
Commercial Street Lighting	\$0.0071 per Therm
Natural Gas Vehicle Service	\$0.0435 per Therm
<u>Commercial Standby Generator</u>	<u>\$0.0208 per Therm</u>
<u>Commercial Gas Heat Pump Service</u>	<u>\$0.0208 per Therm</u>
General Service 1	\$0.0208 per Therm
General Service 2	\$0.0217 per Therm
General Service 3	\$0.0234 per Therm
General Service 4	\$0.0079 per Therm
General Service 5	\$0.0058 per Therm

Revenues derived from the Swing Service Charge are credited to the Purchased Gas Adjustment Clause to the extent applicable.

Issued By: Gordon L. Gillette, T. J. Szelistowski, President  
Issued On: December 3, 2015

Effective: December 3, 2015

PEOPLES GAS SYSTEM  
DOCKET NO. 20180117-GU  
STAFF'S FIRST DATA REQUEST  
REQUEST NO. 17  
PAGE 8 OF 8  
FILED: JUNE 5, 2018

Peoples Gas System  
a Division of Tampa Electric Company  
Original Volume No. 3

~~Seventh-Eighth~~ Revised Sheet No. 7.201  
Cancels ~~Sixth-Seventh~~ Revised Sheet No. 7.201

**RESIDENTIAL SERVICE  
Rate Schedule RS**

**Availability:**

Throughout the service areas of the Company.

**Applicability:**

Gas Service for residential purposes in individually metered residences and separately metered apartments. Also, for Gas used in commonly owned facilities of condominium associations, cooperative apartments, and homeowners associations, (excluding any premise at which the only Gas-consuming appliance or equipment is a standby electric generator), subject to the following criteria:

1. 100% of the Gas is used exclusively for the co-owner's benefit.
2. None of the Gas is used in any endeavor which sells or rents a commodity or provides service for a fee.
3. Each Point of Delivery will be separately metered and billed.
4. A responsible legal entity is established as the Customer to whom the Company can render its bills for said services.

5. RS-GHP refers to any Residential Customer utilizing a gas heat pump ("GHP") for heating and cooling.

Customers receiving service under this schedule will be classified for billing purposes according to annual usage as follows:

<u>Billing Class</u>	<u>Annual Consumption</u>
RS-1	0 – 99 Therms
RS-2	100 – 249 Therms
RS-3	250 – 1,999 Therms
<u>RS-GHP</u>	<u>All Therms</u>

**Monthly Rate:**

<u>Billing Class</u>	<u>Customer Charge</u>
RS-1	\$12.00 per month
RS-2	\$15.00 per month
RS-3	\$20.00 per month
<u>RS-GHP</u>	<u>\$20.00 per month</u>

Distribution Charge: \$0.26782 per Therm for RS-1, RS-2, and RS-3  
\$0.0999 per Therm for RS-GHP

Minimum Bill: The Customer charge.

Issued By: William N. Cantrell, T. J. Szelistowski, President  
Issued On: May 19, 2009

Effective: June 18, 2009



Peoples Gas System  
a Division of Tampa Electric Company  
Original Volume No. 3

~~Fourth-Fifth~~ Revised Sheet No. 7.201-1  
Cancels ~~Third-Fourth~~ Revised Sheet No. 7.201-1

### RESIDENTIAL SERVICE (Continued)

Note 1 – Company's BudgetPay plan is available to eligible Customers receiving Gas Service pursuant to this rate schedule (See Sheet No. 5.401-3).

The bill for the Therms billed under this schedule shall be increased in accordance with the provisions of the Company's Purchased Gas Adjustment Clause set forth on Sheet No. 7.101-1.

#### Special Conditions:

1. The rates set forth under this schedule shall be subject to the operation of the Energy Conservation Cost Recovery Adjustment Clause set forth on Sheet No. 7.101-2.
2. Service under this schedule shall be subject to the Rules and Regulations set forth in this tariff.
3. Service under this schedule is subject to annual volume review by the Company or any time at the Customer's request. If reclassification to another billing class is appropriate such classification will be prospective.
4. The rates set forth under this schedule shall be subject to the operation of the Company's Tax and Fee Adjustment Clause set forth on Sheet No. 7.101-5.
5. The rates set forth under this schedule shall be subject to the operation of the Cast Iron Bare Steel Replacement Rider Surcharge set forth on Sheet Nos. 7.806 through 7.806-3.
6. A RS-GHP Customer with an annual consumption in excess of 1,999 Therms shall be eligible for transportation service under Rider NCTS.
7. When the Customer receives service under the Company's Natural Choice Transportation Service Rider (Rider NCTS), the rates set forth above shall be subject to the operation of the Company's Swing Service Charge set forth on Sheet No. 7.101-3.

Issued By: G. L. Gillette T. J. Szelistowski, President  
Issued On: December 14, 2014

Effective: January 1, 2013

REVISED: 06/26/2018

Peoples Gas System  
a Division of Tampa Electric Company  
Original Volume No. 3

Original Sheet No. 7.405

COMMERCIAL GAS HEAT PUMP SERVICE  
RATE SCHEDULE CS-GHP

Availability:

Throughout the service areas of the Company.

Applicability:

Gas delivered to any Commercial Customer utilizing a Gas Heat Pump for heating and cooling.

Monthly Rate:

Customer Charge: \$35.00 per month

Distribution Charge: \$0.2063 per Therm

Minimum Bill: The Customer charge

Special Conditions:

1. The gas provided for GHP would be separately metered and would appear separately on Customer bills.
2. The bill for the Therms billed at the above rates shall be increased in accordance with the provisions of the Company's Purchased Gas Adjustment Clause set forth on Sheet No. 7.101-1, unless the customer receives transportation service under the Company's Rider NCTS.
3. The rates set forth above shall be subject to the operation of the Energy Conservation Cost Recovery Adjustment Clause set forth in Sheet No. 7.101-2.
4. When the Customer receives service under the Company's Natural Choice Transportation Service Rider (Rider NCTS), the rates set forth above shall be subject to the operation of the Company's Swing Service Charge set forth on Sheet No. 7.101-3.
5. The rates set forth under this schedule shall be subject to the operation of the Company's Tax and Fee Adjustment Clause set forth on Sheet No. 7.101-5.
6. A contract for an initial term of one year may be required as a condition precedent to service under this schedule, unless an extension of facilities is involved, in which case the term of the contract shall be the term required under the agreement for the facilities extension.
7. The rates set forth in this schedule shall be subject to the operation of the Company's Competitive Rate Adjustment Clause set forth on Sheet No. 7.101-5.

Issued By: T. J. Szelistowski, President

Effective:

Issued On:

21

Peoples Gas System Original Sheet No. 7.405-1  
a Division of Tampa Electric Company  
Original Volume No. 3

COMMERCIAL GAS HEAT PUMP SERVICE (Continued)

8. Service under this schedule shall be subject to the Rules and Regulations set forth in this tariff.
9. Service under this schedule is subject to annual volume review by the Company or any time at the Customer's request. If reclassification to another schedule is appropriate such classification will be prospective.
10. The rates set forth under this schedule shall be subject to the operation of the Cast Iron Bare Steel Replacement Rider Surcharge set forth on Sheet Nos. 7.806 through 7.806-3.

Issued By: T. J. Szelistowski, President Effective:  
Issued On:

**30A**

Peoples Gas System  
a Division of Tampa Electric Company  
Original Volume No. 3

~~Fifth-Sixth~~ Revised Sheet No. 7.803  
Cancels ~~Fourth-Fifth~~ Revised Sheet No. 7.803

## NATURAL CHOICE TRANSPORTATION SERVICE Rider NCTS

### Availability:

Available to all Customers receiving service from Company (except Customers receiving service under Rate Schedule RS) and (a) for which service hereunder is requested as a part of an NCTS Customer Pool (as herein defined), (b) for which the Customer's total consumption of Gas is purchased from or through a Pool Manager (as herein defined), (c) which would otherwise qualify for service under Rate Schedule ~~RS-GHP, CS-GHP~~, SGS, GS-1, GS-2, GS-3, GS-4, GS-5, CSLS or NGVS and (d) for which the Company has received a request for service hereunder in compliance with Special Condition 3. Service pursuant to this Rider is available when such service can be made available without detriment to the Company's other Customers.

### Applicability:

To firm transportation of Gas delivered to Company by a Pool Manager for a Customer account pursuant to this Rider.

### Monthly Rate:

The Monthly Rate for transportation service applicable to each individually billed Customer account shall be the Monthly Rate applicable to such individually billed account under Rate Schedule ~~RS-GHP, CS-GHP~~, SGS, GS-1, GS-2, GS-3, GS-4, GS-5, CSLS or NGVS based upon the annual therm usage of such separately metered account.

The Company's Purchased Gas Adjustment Clause set forth on Sheet No. 7.101-1 shall not apply to transportation service provided by Company to a Customer pursuant to this Rider.

### Special Conditions:

1. For purposes of this Rider, "NCTS Customer Pool" means a group of Customer accounts for which Gas is delivered to Company by a Pool Manager for transportation service of the aggregated needs of the Customer accounts. The Company shall not be required to provide transportation service to more than forty (40) independent NCTS Customer Pools.

Issued By: ~~William N. Cantrell~~ T. J. Szelistowski, President  
Issued On: ~~May 19, 2009~~

Effective: ~~June 18, 2009~~



Peoples Gas System  
a Division of Tampa Electric Company  
7.806  
Original Volume No. 3

~~Sixth-Seventh~~ Revised Sheet No. 7.806  
Cancels ~~Fifth-Sixth~~ 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 /	
<del>Residential Gas Heat Pump Service</del>	\$0.05285 per therm
Small General Service	\$0.03337 per therm
General Service – 1/ Commercial Standby	
Generator Service /	
<del>Commercial Gas Heat Pump Service</del>	\$0.01819 per therm
General Service – 2	\$0.01695 per therm
General Service – 3	\$0.01465 per therm
General Service – 4	\$0.00921 per therm
General Service – 5	\$0.00470 per therm
Commercial Street Lighting	\$0.02376 per therm
Natural Gas Vehicle Service	\$0.03789 per therm
Wholesale	\$0.00642 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: ~~September 1, 2017~~ **23**

Effective: ~~January 1, 2018~~

# 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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Economics (Friedrich, Hudson)  
Office of the General Counsel (Mapp) *SH MF*

**RE:** Docket No. 20170086-SU – Investigation into the billing practices of K W Resort Utilities Corp. in Monroe County. *SC*

**AGENDA:** 08/07/18 – Regular Agenda – Show Cause Issue 1 – Proposed Agency Action Issues 2-7

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** Place before Docket No. 20170141-SU

---

RECEIVED-FPSC  
2018 JUL 26 AM 10:35  
COMMISSION  
CLERK

## Table of Contents

<b><i>Issue</i></b>	<b><i>Description</i></b>	<b><i>Page</i></b>
	Case Background .....	3
1	Show Cause (Mapp, Friedrich).....	4
2	Refund Time Period (Friedrich) .....	9
3	Safe Harbor Marina (Friedrich).....	10
4	Sunset Marina (Friedrich).....	11
5	Pools (Friedrich) .....	12
6	Base Facility Charges (Friedrich).....	13
7	Roy's Trailer Park (Friedrich).....	14
8	Close the Docket (Mapp).....	15
	Attachment A.....	16

## Case Background

K W Resort Utilities Corporation (KWRU) is a Class A utility providing wastewater service to approximately 1,865 customers in Monroe County. Water service is provided by the Florida Keys Aqueduct Authority (FKAA).

During the utility's 2015 rate case, staff found billing practices that appeared to be inconsistent with the utility's approved tariff.<sup>1</sup> Subsequently, staff opened the instant docket, as ordered by the Commission, to conduct a full audit and investigation of KWRU's billing practices in order to determine if any orders, rules, or statutes were violated by the utility.<sup>2</sup> The Commission has previously addressed incorrect billing practices of the utility in Order Nos. PSC-02-1165-PAA-SU<sup>3</sup> and PSC-02-1711-TRF-SU.<sup>4</sup>

An audit of the utility's billing practices from April 2013 through March 2017 was completed and filed in the docket file on November 6, 2017.<sup>5</sup> On November 8, 2017, the Utility acknowledged receipt of the audit report and stated its intent to file a written response. KWRU filed a response to the audit on January 30, 2018, and indicated that it had refunded \$72,701.12 to Meridian West, \$25,512.91 to Banyan Grove, and \$43,402.79 to Flagler Village to remedy KWRU's billing errors.<sup>6</sup>

On March 22, 2018, staff held an informal meeting with representatives from KWRU, the Office of Public Counsel (OPC), and Monroe County (County) to discuss the audit results and ongoing investigation. Following the informal meeting between the parties, staff sent a Notice of Apparent Violation (NOAV) to KWRU on May 17, 2018, by certified letter. On June 12, 2018, OPC submitted written comments addressing KWRU's billing practices, many of which are consistent with staff's NOAV. KWRU responded to staff's NOAV on July 16, 2018.

This recommendation addresses the results of staff's audit and investigation of KWRU's billing practices for April 2013 through March 2016. The Commission has jurisdiction in this matter pursuant to Sections 367.081, 367.091, and 367.161, Florida Statutes (F.S.).

---

<sup>1</sup>Order No. PSC-16-0123-PAA-SU, issued March 23, 2016, in Docket No. 150071-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.*

<sup>2</sup>Order No. PSC-17-0091-FOF-SU, issued March 13, 2017, in Docket No. 150071-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.*

<sup>3</sup>Order No. PSC-02-1165-PAA-SU, issued August 26, 2002, in Docket No. 020520-SU, *In re: Complaint by Safe Harbor Marina against K W Resort Utilities Corp. and request for new class of service for bulk wastewater rate in Monroe County*

<sup>4</sup>Order No. PSC-02-1711-TRF-SU, issued December 9, 2002, in Docket No. 021008-SU, *In re: Request for approval of two new classes of bulk wastewater rates in Monroe County by K W Resort Utilities Corp.*

<sup>5</sup>DN. 09533-2017

<sup>6</sup>KWRU indicated it refunded Meridian West and Flagler Village because its billing system erroneously classified these customer accounts as general service rather than residential. KWRU additionally indicated that it refunded Banyan Grove to correct billing based on FKAA meters instead of 48 multi-family units.

## Discussion of Issues

**Issue 1:** Should KWRU be ordered to show cause, in writing, within 21 days, why it should not be fined for apparent violations of Sections 367.081(1) and 367.091(3), F.S., regarding approved rates?

**Recommendation:** Yes. KWRU should be ordered to show cause, in writing within 21 days, as to why it should not be fined a flat fee in the amount of \$1,000 for failing to charge its approved rates, as required by Sections 367.081(1) and 367.091(3), F.S. (Mapp, Friedrich)

**Staff Analysis:** Sections 367.081(1) and 367.091, F.S., permit a utility to only charge its approved rates. The Commission has previously investigated KWRU's billing practices on several occasions. In 2001, Safe Harbor Marina (Safe Harbor), a customer of KWRU, filed a letter with the Division of Consumer Affairs concerning the billing practices of KWRU. In Order No. PSC-02-1165-PAA-SU<sup>7</sup>, issued August 26, 2002, the Commission determined that KWRU billed Safe Harbor a flat rate that was not in the utility's tariff and that KWRU was billing discriminatory rates to Safe Harbor. As a result, the Commission approved a unique bulk wastewater rate for Safe Harbor.

Also in 2002, KWRU filed an application for a price index rate adjustment pursuant to Section 367.081(4)(a), F.S. During staff's review of that application, staff became aware of two wastewater charges used in revenue calculations for which there were no Commission-approved tariffs. During a conference call between staff and the utility, the utility was informed of staff's findings and asked to provide additional information about the new classes of service. KWRU provided an explanation of the origin and duration of the charges and filed for new classes of service. As a result, Order No. PSC-02-1711-TRF-SU<sup>8</sup> was issued December 9, 2002, which established a small pool charge and a large pool charge based on demand the Key West Golf Club - HOA (KWGC-HOA) pool facilities placed on the system. In addition, rates for temporary service for a septic tank pumping company were also approved. While the Commission did not order KWRU to issue any refunds or to show cause for charging a rate that was not in its tariff and failing to apply for a new class of service, the Commission put KWRU on notice that it was in violation of Sections 367.091(4) and 367.091(5), F.S. The Commission stated, as part of its reasoning in declining to show cause KWRU in Docket No. 021008-SU, that "[KWRU] now thoroughly understands the requirements of Sections 367.091(4) and 367.091(5), Florida Statutes, and will not initiate new classes of service without notifying this Commission in a timely manner."

On February 18, 2016, during the PAA portion of KWRU's 2015 rate case,<sup>9</sup> staff sent a letter to KWRU which stated that the utility's billing practices for several general service customers appeared to be inconsistent with its approved tariff. The utility responded to staff's letter on March 21, 2016. In Order No. PSC-2017-0091-FOF-SU, issued March 13, 2017, the Commission ordered that a separate docket be established to conduct a full audit and

---

<sup>7</sup>Id.

<sup>8</sup>Id.

<sup>9</sup>In Docket No. 150071-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.*

Date: July 26, 2018

investigation into the utility's billing practices, and thus, this docket was established. The purpose of the audit and investigation was to determine if any orders, rules, or statutes were violated by the utility. KWRU responded to staff's audit on January 30, 2018.

As mentioned in the case background, staff held an informal meeting on March 22 2018, with representatives from KWRU, OPC and the County. Following this informal meeting, staff issued a NOAV to KWRU on May 17, 2018, by certified letter. Within staff's NOAV, staff identified the following as the utility's apparent noncompliance with Commission statutes, rules, and orders:

- Negotiated Flat Rate: Order No. PSC-02-1165-PAA-SU, issued August 26, 2002, recognized that KWRU had billed discriminatory rates to Safe Harbor Marina (Safe Harbor) because the monthly flat rate that was billed to this customer was not approved by the Commission, in apparent violation on Section 367.081(2)(a)1., F.S. Following this order, KWRU corrected its billing practices. However, during the billing period of April 2013 through March 2016, KWRU billed Safe Harbor a negotiated rate of \$1,650.67 per month instead of its approved bulk flat rate of \$917.11 per month. The utility sent a letter, dated April 20, 2009, to the Commission advising it of the utility's decision to charge a different unauthorized rate for this wastewater customer. However, the Commission never approved the negotiated rate KWRU billed Safe Harbor.
- Pool Charges: While processing KWRU's 2002 price index request, Commission staff became aware of two charges used in revenue calculations for which there were no Commission-approved tariffs on file. As a result, the utility formally requested a new class of service for small and large pools. The pool charges for KWGC-HOA were approved in Order No. PSC-02-1711-TRF-SU. Staff's audit indicated that KWRU administered the pool charges from tariff Sheet No. 15.7, which was applicable to the KWGC-HOA, to two additional customers, Sunset Marina and Carefree Property between April 2013 and March 2016.
- Base Facility Charge (BFC): Staff's audit into the billing practices of KWRU (April 2013 through March 2016) indicated that the utility billed the following customers BFCs based on the number of units or individual dwellings present behind a master meter rather than the appropriate BFC based on the customer's meter size, as provided in Tariff Sheet No. 12.0:
  - Sunset Marina
  - General Service Customers: James Beaver, Eadeh Bush Co., and Armando Sosa
  - Ocean Spray Trailer Park
  - Tropic Palm Mobile Home Park
  - Meridian West Apartments
  - Fourth Ave. LLC
  - Banyan Grove
  - ITNOR Waters Edge
  - Roy's Trailer Park
  - Flagler Village

Date: July 26, 2018

KWRU responded to staff's NOAV on July 16, 2018, and addressed the negotiated flat rate, pool charges, and BFC billing practices identified by staff. In its response, the utility stated that it mistakenly believed that its revision to Safe Harbor's bulk wastewater rate had been accepted by the Commission, similar to a developer's agreement for service. Additionally, in its response, KWRU pointed out that at the end of 2009, management was moved in-house and has since routinely brought all matters before the Commission. Further, KWRU indicated it believed the pool charges were implemented reasonably under the tariff and were only implemented after consulting with staff. KWRU responded to staff's NOAV in regards to BFC billing practices by admitting it had billed several general service customers incorrect BFCs and stated it was an error that occurred in switching KWRU's billing system after the 2009 rate case. The utility also addressed Roy's Trailer Park in its response, and explained that it had engaged in numerous discussions with the owner to mitigate the customer's outstanding balance owed to the utility consistent with KWRU's approved tariffs. In addition, KWRU has made refunds to three of its general service customers to correct incorrect billing practices that occurred prior to the implementation of Order No. PSC-16-0123-PAA-SU, (PAA Order) in April 2016. Staff believes it is also important to note that the utility's billing practices appear to be consistent with its approved tariff following the implementation of the PAA Order.

Utilities are charged with the knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). In Commission Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, titled, In re: Investigation into the Proper Application of Rule 25-14.003, Florida Administrative Code, Relating to Tax Savings Refund for 1988 and 1989 for GTE Florida, Inc., the Commission, having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "[i]n our view, 'willful' implies an intent to do an act, and that this is distinct from an intent to violate a statute or rule."

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 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. In making similar decisions, the Commission has repeatedly held that utilities are charged with the knowledge of



Date: July 26, 2018

the Commission's Rules and Statutes.<sup>10</sup> In other words, a utility cannot excuse its violation because it "did not know."

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 agrees with staff's recommendation, the Commission should issue 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 pursuant to Rule 28-106.2015, F.A.C. 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. If the utility pays the fine, 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.

By billing rates that are not in the utility's approved tariff, KWRU appears to be in violation of the statutes. While staff believes occasional mistakes may be made by any utility, staff believes that making excessive and repeated mistakes demonstrates a disregard for the utility's obligation to charge its approved rates. As discussed in subsequent issues, although the utility corrected

---

<sup>10</sup>Order Nos. PSC-11-0250-FOF-WU, issued June 13, 2011, in Docket No. 100104-WU, *In re: Application for increase in water rates in Franklin County by Water Management Services, Inc.*; PSC-07-0275-SC-SU, issued April 2, 2007, in Docket No. 060406-SU, *In re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewage Company*; PSC-05-0104-SC-SU, issued January 25, 2005 in Docket Nos. 020439-SU and 020331-SU, *In re: Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation*; *In re: Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.*

Date: July 26, 2018

these billing problems following the issuance of the PAA Order, Order No. PSC-16-0123-PAA-SU, in 2016, given the utility's pattern of failure to bill customers in accordance with its Commission-approved tariffs and the number of violations discovered within the three-year audited period, KWRU's mistakes are excessive and, therefore, appear to violate Sections 367.081(1) and 367.091(3), F.S. Staff believes that this situation warrants more than just a warning and recommends that KWRU should be ordered to show cause, in writing within 21 days, as to why it should not be fined a flat fee in the amount of \$1,000 for its apparent violation of Section 367.081(1) and 367.091(3), F.S., for charging unauthorized rates.

Date: July 26, 2018

**Issue 2:** What is the appropriate time period to be considered for potential refunds?

**Recommendation:** The appropriate time period to be considered for potential refunds is from April 2013 through March 2016. (Friedrich)

**Staff Analysis:** As previously discussed, in Order No. PSC-17-0091-FOF-SU<sup>11</sup> the Commission ordered that staff conduct a full audit and investigation of KWRU's billing practices. Audit staff reviewed the utility's billing records from April 2013 through March 2017. In a letter dated June 12, 2018, OPC noted that staff's audit does not go back to the final order issued in the 2009 rate case when KWRU started incorrectly billing these customers.

Staff believes this time period is a reasonable remedy to mitigate the utility's incorrect billing practices prior to the implementation of the PAA Order while considering that KWRU has corrected these billing practices following the implementation of the PAA Order. Therefore, staff recommends that the appropriate time period to be considered for potential refunds in this docket is April 2013 through March 2016.

---

<sup>11</sup>Id.

Date: July 26, 2018

**Issue 3:** Should KWRU be required to refund monies to Safe Harbor Marina? If so, what is the appropriate amount that should be refunded?

**Recommendation:** Yes. KWRU should be required to refund \$26,408 with interest in accordance with Rule 25-30.360, F.A.C to Safe Harbor Marina. The refund should be completed within 90 days of the consummating order and documentation supporting the final refund should be provided within 10 days of the completed refund. (Friedrich)

**Staff Analysis:** Safe Harbor is a unique customer not only because this customer owns, operates, and maintains its own lift station, but it is also a multi-use customer consisting of residential and commercial units, boat slips, and bathhouses. Docket No. 020520-SU was initiated due to a complaint from Safe Harbor concerning the billing practices of KWRU.<sup>12</sup> The Commission determined that KWRU had billed Safe Harbor a discriminatory flat rate for Safe Harbor's unmetered bar/restaurant, which was not in KWRU's tariff, and approved a bulk wastewater rate for Safe Harbor.

During KWRU's 2015 rate case, staff determined that KWRU was not billing this customer the approved tariff rate. In response to staff's audit, KWRU indicated that it sent the Commission a letter, dated February 27, 2009, stating it would charge a negotiated flat rate to Safe Harbor of \$1,650.67. While staff acknowledges that KWRU sent in a letter notifying the Commission of its intent, the utility failed to appropriately apply for approval of the new rate and have its request brought forth and approved by the Commission. Based on the utility's history with the Commission, where the Commission has addressed the utility billing unauthorized rates in Order Nos. PSC-02-1165-PAA-SU and PSC-02-0711-TRF-SU, staff believes the utility is aware of the procedures required for approval of a new rate pursuant to Sections 367.081 and 367.091, F.S., and should not have begun to charge a negotiated bulk rate without Commission approval.

During the 36 month period from April 2013 through March 2016, KWRU's tariff rate for Safe Harbor Marina was \$917.11 per month (Attachment A). However, during this time period, the utility billed Safe Harbor a negotiated bulk rate of \$1,650.67. Based on these rates, staff determined that KWRU overbilled Safe Harbor by \$733.56 during each billing period. As a result of charging a negotiated rate that was not approved by the Commission, staff recommends that KWRU refund \$26,408 ( $\$733.56 \times 36$ ) with interest in accordance with Rule 25-30.360, F.A.C to Safe Harbor Marina. The refund should be completed within 90 days of the consummating order and documentation supporting the final refund should be provided within 10 days of the completed refund.

---

<sup>12</sup>Id.

Date: July 26, 2018

**Issue 4:** Should KWRU be required to refund monies regarding its billing practices to Sunset Marina? If so, what is the appropriate amount that should be refunded?

**Recommendation:** Yes. KWRU should be required to refund \$41,034 with interest in accordance with Rule 25-30.360, F.A.C to Sunset Marina. The refund should be completed within 90 days of the consummating order and documentation supporting the final refund should be provided within 10 days of the completed refund. (Friedrich)

**Staff Analysis:** Sunset Marina is a general service customer with one two-inch and one eight-inch turbo FKAA meter serving a marina, convenience store, dry boat slips, and apartments. Staff determined that during the 36 month period (April 2013 - March 2016) KWRU billed Sunset Marina BFCs for 64 residential units in addition to BFCs for the customer's two-inch and eight-inch turbo meters, as well as charges for two small pools<sup>13</sup> and a gallonage charge based on usage.

Based on KWRU's approved tariffs, Sunset Marina should have been billed based on the FKAA meters only. KWRU should not have also billed a residential BFC of \$17.81 per month for each of the 64 apartment units behind the master meters. KWRU overbilled Sunset Marina \$1,139.84 per billing period (\$17.81 x 64 apartment units). Based on the above, staff recommends that KWRU should refund \$41,034 (\$1,139.84 x 36) with interest in accordance with Rule 25-30.360, F.A.C to Sunset Marina. The refund should be completed within 90 days of the consummating order and documentation supporting the final refund should be provided within 10 days of the completed refund.

---

<sup>13</sup>Staff addresses KWRU's billing errors with regard to pools in Issue 4.

Date: July 26, 2018

**Issue 5:** Should KWRU be required to refund monies regarding its billing practices for pools? If so, what is the appropriate amount that should be refunded?

**Recommendation:** No. KWRU should not be required to refund monies regarding its billing practices for pools. (Friedrich)

**Staff Analysis:** As discussed in Issue 1, Order No. PSC-02-1711-TRF-SU, issued December 9, 2002<sup>14</sup>, established a small pool rate of \$41.62 per month and a large pool rate of \$141.08 per month which considered the demand the KWGC-HOA pool facilities placed on the system. Within this order, the Commission determined that the utility should not be required to refund any amounts collected from KWGC-HOA, which were billed using unauthorized rates, because the Commission-approved rate was higher than the rate the utility had been collecting from KWGC-HOA. Additionally, as discussed in Issue 1, the Commission did not order KWRU to issue any refunds or to show cause for charging a rate that was not in its tariff and failing to apply for a new class of service. However, the order noticed KWRU that it should now thoroughly understand the requirements of Sections 367.091(4) and (5), F.S., and not initiate new classes of service without notifying this Commission in a timely manner.

Staff's investigation and audit determined that KWRU had applied its approved pool rates for KWGC-HOA to other additional customers with pools of similar demands (Sunset Marina and Carefree Property). In the utility's response dated July 16, 2018, KWRU indicated that it applied its approved pool charges reasonably under its tariff and only implemented the charges after consultation with staff and its assurance that it was appropriate. KWRU's tariff sheet for pool charges was canceled by the Commission in the PAA Order. As mentioned previously, KWRU has corrected its billing practices following the implementation of the PAA Order. Therefore, staff believes the utility should not be required to refund rates charged for pools other than the KWGC-HOA because the utility believed that the tariff was applicable to any additional customers with pools.

---

<sup>14</sup>Id.

Date: July 26, 2018

**Issue 6:** Should KWRU be required to refund general service customers that were billed BFCs based on units instead of meters? If so, what is the appropriate amount that should be refunded?

**Recommendation:** No. KWRU should not be required to refund general service customers that were billed BFCs based on units instead of meters. (Friedrich)

**Staff Analysis:** In the utility's 2009 rate case, the Commission transitioned the utility from flat residential rates to a traditional BFC and gallonage charge rate structure.<sup>15</sup> In response to staff's investigation and audit, KWRU agreed that several of its general service customers, as discussed on page five, were billed based on units instead of meter sizes. According to the utility, this error occurred during the transition from flat to volumetric rates for residential customers and a billing software error which incorrectly identified the customers as residential units. In addition, it appears that the billing determinants in the 2009 rate case may have been based on units rather than meter sizes for some general service customers. As mentioned previously, KWRU has corrected its billing practices following the implementation of the PAA Order in April 2016. Therefore, staff does not recommend that KWRU refund general service customers that were billed BFCs based on units and not FKAA meters.

---

<sup>15</sup>Order No. PSC-09-0057-FOF-SU, issued January 27, 2009, in Docket No.070293-SU, *In re: application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.*

Date: July 26, 2018

**Issue 7:** Should KWRU be required to refund monies regarding its billing practices for Roy's Trailer Park? If so, what is the appropriate amount that should be refunded?

**Recommendation:** No. KWRU should not be required to refund monies regarding its billing practices for Roy's Trailer Park. (Friedrich)

**Staff Analysis:** Roy's Trailer Park is a general service customer of KWRU consisting of approximately 100 mobile homes which have been converted to multi-units (i.e. duplex, triplex, etc.) and are serviced by 100 FKAA meters. In response to staff's NOAV, KWRU admitted it billed this customer based on the number of units instead of meters dating back to December 2015.

The utility indicated that the majority of the 100 accounts in Roy's Trailer Park have carried outstanding balances dating back to October 2015. The utility also indicated that although Roy's Trailer Park made a payment each month for sewer service, the park was not paying its monthly sewer bill in full.

KWRU addressed the billing issues with respect to Roy's Trailer Park by letter dated August 28, 2017, and explained that the customer had repeatedly failed to remit its full payment for numerous billing periods resulting in an outstanding balance of \$49,300.37, which included late payment charges of \$7,215 assessed to all of the Roy's Trailer Park accounts that were delinquent. Roy's Trailer Park agreed to the utility's settlement proposal of \$35,215.06, which waived the late payment charges and recalculated the customer's bill for October 2015 through March 2016 consistent with the rates established in Order No. PSC-16-0123-PAA-SU. Billing Roy's Trailer Park based on FKAA meters and not units further reduced the outstanding balance by \$6,870.31.

Based on the above, staff recommends that the utility's settlement with this customer was a reasonable solution to address the corrected outstanding balance for Roy's Trailer Park for this time period. Consistent with staff's recommendation in Issue 6 that the utility should not be required to refund general service customers that were billed BFCs based on units instead of meters, staff does not recommend that the utility be required to refund Roy's Trailer Park for the time period of April 2013 through September 2015 during which it billed based on units instead of meters.



Date: July 26, 2018

**Issue 8:** Should this docket be closed?

**Recommendation:** If the Commission approves Issue 1 and KWRU 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 KWRU responds to the show cause order by remitting the fine, this show cause matter will be considered resolved. If the Commission approves Issue 1 and KWRU 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. If the Commission approves the recommended refunds in Issues 3 and 4, this docket should remain open until staff verifies that the utility has made the ordered refunds. Once the show cause matter is resolved and all ordered refunds have been made and verified by staff, this docket should be closed administratively. (Mapp)

**Staff Analysis:** If the Commission approves Issue 1 and KWRU 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 KWRU responds to the show cause order by remitting the fine, this show cause matter will be considered resolved. If the Commission approves Issue 1 and KWRU 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. If the Commission approves the recommended refunds in Issues 3 and 4, this docket should remain open until staff verifies that the utility has made the ordered refunds. Once the show cause matter is resolved and all ordered refunds have been made and verified by staff, this docket should be closed administratively.

**EL EVENTH REVISED SHEET #15.5  
CANCELS TENTH REVISED SHEET #15.5**

**NAME OF COMPANY: KW RESORT UTILITIES CORPORATION  
SEWER TARIFF**

**BULK WASTEWATER RATE FOR  
SAFE HARBOR MARINA**

**AVAILABILITY** - For Safe Harbor Marina.

**APPLICABILITY** - For Safe Harbor Marina

**LIMITATIONS** - Subject to all Rules and Regulations of this Tariff and General Rules and Regulations of The Commission as amended from time to time.

**BILLING PERIOD** - Monthly.

<b><u>RATE</u></b> -	13 Residential living units at 1 ERC each (apartments, Mobile homes, House Boats with apartments)	\$343.66
	18 Live Aboard Boats at .6ERC each	286.38
	27 Non Live Aboard Boats at 1/5 ERC each	143.20
	6 Vacant slips at 1/5 ERC each	30.84
	2 Bathhouses at 1 ERC each	52.87
	2 Commercial Businesses at 1/4 ERC each	26.43
	1 Commercial Bar	33.73
	<b><u>Total Bulk Rate</u></b>	<b>\$ 917.11</b>

**TERMS OF PAYMENT** Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. After five (5) working days, written notice, separate and apart from any other bill, service may then be disconnected.

**EFFECTIVE DATE: MARCH 30, 2013  
ORDER NO.:  
TYPE OF FILING: 2012 PRICE INDEX INCREASE  
FOR SERVICE RENDERED ON OR AFTER MARCH 30, 2013**

**Christopher A. Johnson  
Issuing Officer**

**President  
Title**

# Item 12

State of Florida



FILED 7/26/2018  
DOCUMENT NO. 04901-2018  
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:** July 26, 2018

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Division of Accounting and Finance (D. Andrews, D. Buys, Frank, Hightower, Johnson, Norris, Sowards) *ALM*  
Division of Economics (Friedrich, Hudson) *ST MFR CAS DEB*  
Division of Engineering (Graves, Knoblauch) *EXJ*  
Office of the General Counsel (J. Crawford, Mapp) *SA*

**RE:** Docket No. 20170141-SU – Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.

**AGENDA:** 08/07/18 – Regular Agenda – Post-Hearing Decision – Participation is Limited to Commissioners and Staff.

**COMMISSIONERS ASSIGNED:** Polmann, Clark, Fay

**PREHEARING OFFICER:** Polmann

**CRITICAL DATES:** 8-Month Effective Date 08/13/18

**SPECIAL INSTRUCTIONS:** None

## Table of Contents

<b>Issue</b>	<b>Description</b>	<b>Page</b>
	Case Background.....	4
1	Quality of Service (Knoblauch).....	6
2	Single Source Bidding (Knoblauch).....	10
3	Rate Base Audit Findings (D. Andrews).....	15
4	Plant in Service (Knoblauch, D. Andrews) .....	16
5	Accumulated Depreciation (D. Andrews) .....	29
6	Contributions-in-Aid-of-Construction (CIAC) (D. Andrews) .....	31
7	Accumulated Amortization of CIAC (D. Andrews).....	33
8	Used and Useful (Knoblauch) .....	34
9	Working Capital Allowance (Sewards).....	35
10	Rate Base (D. Andrews) .....	41
11	Capital Structure (Hightower) .....	42
12	Return on Equity (Hightower).....	43
13	Cost of Long-Term Debt (Hightower) .....	44
14	Capital Structure (Hightower) .....	47
15	Billing Determinants for Test Year Revenues (Friedrich, Knoblauch, Sewards) .....	49
16	Appropriate Test Year Revenues (Friedrich) .....	54
17	Net Operating Income Audit Findings (Johnson) .....	56
18	Salaries and Wage Expense (Johnson) .....	58
19	Employee Pensions & Benefits Expense (Sewards) .....	63
20	Sludge Hauling, Chemicals, and Purchased Power Expenses (Knoblauch, Sewards) ....	68
21	Materials and Supplies Expense (Sewards).....	71
22	Contractual Services – Engineering Expense (Knoblauch).....	74
23	Rental of Equipment Expense (Sewards, Knoblauch) .....	76
24	Worker’s Comp Expense (Sewards) .....	78
25	Bad Debt Expense (Sewards) .....	80
26	Storm Restoration Expenses Due to Hurricane Irma (Knoblauch, Sewards).....	82
27	Miscellaneous Expense (Sewards) .....	86
28	Pro Forma Expenses (Knoblauch, Sewards) .....	89
29	Rate Case Expense (Frank) .....	92
30	Adjustments to the Utility’s O&M Expense (Sewards) .....	97
31	Appropriate Amount of O&M expense (Sewards).....	100
32	Depreciation Expense (D. Andrews).....	101
33	Taxes Other Than Income (D. Andrews) .....	103
34	Revenue Requirement (Sewards) .....	104
35	Adjustments to Test Year Billing Determinants (Friedrich) .....	106
36	Rate Structure and Rates for Wastewater Service (Friedrich).....	108
37	Reuse Rate (Friedrich).....	112
38	Miscellaneous Service Charges (Friedrich).....	114
39	Late Payment Charge (Friedrich) .....	118
40	Lift Station Cleaning Charge (Friedrich) .....	120
41	Initial Customer Deposits (Friedrich).....	122
42	Allowance for Funds Prudently Invested (AFPI) Charges (Friedrich) .....	124

43	Removal of the Amortized Rate Case Expense (Friedrich, Frank) .....	127
44	Refund (D. Andrews) .....	129
45	Asset Management and Preventive Maintenance Plan (Knoblauch) .....	131
46	Notification of Commission Ordered Adjustments (Frank) .....	133
47	Closing Docket (Mapp) .....	134
	Schedule No. 1-A .....	135
	Schedule No. 1-B.....	136
	Schedule No. 2.....	137
	Schedule No. 3-A .....	138
	Schedule No. 3-B.....	139
	Schedule No. 4.....	140

## Case Background

K W Resort Utilities Corp. (KWRU or Utility) is a Class A utility providing wastewater service to approximately 1,865 customers in Monroe County. Water service is provided by the Florida Keys Aqueduct Authority (FKAA). Rates were last established for this Utility in its 2015 rate case.<sup>1</sup> According to the Utility's 2016 Annual Report, KWRU recorded total operating revenues of \$2,135,343 and operating expenses of \$1,815,421 during 2016. On November 21, 2017, KWRU filed its application for the rate increase at issue. KWRU requested to forego the Proposed Agency Action process and proceed directly to hearing. The test year established for final rates is the 13-month average period ended June 30, 2017.

The Utility's initial application did not meet the minimum filing requirements (MFRs). On December 7, 2017, staff sent KWRU a letter indicating deficiencies in the filing of its MFRs.<sup>2</sup> The Utility filed a response to staff's deficiency letter on December 12, 2017.<sup>3</sup> However, the Utility's response did not satisfy all of the deficiencies, and on December 13, 2017, staff sent a second letter indicating the outstanding deficiencies.<sup>4</sup> On December 13, 2017, the Utility filed a response to staff's second deficiency letter correcting its remaining deficiencies,<sup>5</sup> and thus the official filing date was established as December 13, 2017,<sup>6</sup> pursuant to Section 367.083, Florida Statutes (F.S.).

KWRU is requesting an increase in rates to recover all costs it asserts will be incurred in order to generate a fair rate of return on its investment and pro forma plant additions. The Utility is requesting final rates designed to generate annual revenues of \$3,682,216. This represents a revenue increase of \$1,349,690, or 57.9 percent.

The intervention of the Office of Public Counsel (OPC) was acknowledged by Order No. PSC-2017-0460-PCO-SU, issued November 30, 2017. Additionally, the intervention of Monroe County (County) was acknowledged by Order No. PSC-2017-0472-PCO-SU, issued December 15, 2017.

On April 23, 2018, OPC and the County filed a joint motion to strike portions of the rebuttal testimonies of KWRU witnesses Johnson and Swain, or in the alternative, to reschedule the technical hearing and for leave to file surrebuttal testimony. At the Prehearing Conference held on May 1, 2018, the joint motion was denied in part.<sup>7</sup> The testimonies of witnesses Johnson and Swain were not stricken. However, OPC and the County were given until close of business on May 4, 2018, to file surrebuttal testimony. On May 4, 2018, OPC witnesses Woodcock and Shultz filed surrebuttal testimony addressing new cost information and revised MFRs provided by KWRU in its rebuttal.

---

<sup>1</sup> Order No. PSC-2017-0091-FOF-SU, issued March 13, 2017, in Docket No. 20150071-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.*

<sup>2</sup> Document No. 10413-2017.

<sup>3</sup> Document No. 10531-2017.

<sup>4</sup> Document No. 10575-2017.

<sup>5</sup> Document No. 10594-2017.

<sup>6</sup> Document No. 10630-2017.

<sup>7</sup> Order No. PSC-2018-0242-PHO-SU, issued May 10, 2018, in Docket No. 20170141-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.*

Docket No. 20170141-SU

Date: July 26, 2018

On April 27, 2018, KWRU filed a motion to strike portions of the testimony of OPC witness Shultz. This motion was taken up at the technical hearing on May 16, 2018. The Commission ruled to strike one portion addressing costs per square foot of witness Shultz's testimony, but allowed a second portion addressing pension plans to be included in the record. (TR 576)

A formal evidentiary hearing and two customer service hearings were held on May 15-17, 2018, in Key West, Florida. The parties filed briefs on June 6, 2018.

This recommendation addresses the Utility's final requested rates. The Commission has jurisdiction pursuant to Section 367.081, F.S.



## **Discussion of Issues**

**Issue 1:** Is the quality of service provided by K W Resort satisfactory?

**Recommendation:** The overall quality of service for the KWRU wastewater system is satisfactory. (Knoblauch)

### **Position of the Parties**

**KWRU:** Yes.

**OPC:** No. The Commission should find KWRU provides marginal quality of service for lapses in wastewater operations, refusal to provide service upon request, its billing complaints, and treatment of customers.

**Monroe County:** Although not perfect, as evidenced by two releases of untreated wastewater in April and May 2018, the quality of wastewater treatment by the Utility's wastewater treatment facilities appears to be adequate. Based on testimony by customers at the customer service hearings, the quality of the Utility's customer service and customer relations appears to be less than satisfactory.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

KWRU stated the evaluation of quality of service is based on the quality of the utility's product, operating conditions, and attempts to address customer satisfaction. (KWRU BR 2) For the quality of the Utility's product, KWRU argued that no complaints made at the customer service hearings were in regards to the quality of service, but were only related to payment for service. (KWRU BR 2) Additionally, no odor complaints were received by the Department of Environmental Protection (DEP), and no notices of violation have been issued. (KWRU BR 2) KWRU affirmed that no deficiencies related to the operational conditions of the Utility's wastewater systems were identified during the test year and two years prior. (KWRU BR 2) The County entered into evidence two untreated wastewater spills which occurred during the test year, though no DEP action was required and KWRU was found to be in compliance based on its most recent DEP inspection. (KWRU BR 2)

KWRU argued that during the test year, the Utility did not receive any billing or service complaints. (KWRU BR 3) At the customer service hearings, KWRU stated that one customer testified on an issue related to customer service. (KWRU BR 3) The customer voiced frustration about being unable to connect to the Utility's wastewater system. (KWRU BR 3) KWRU argued that the customer was made aware of the options to connect previously, and the customer had chosen to wait for the County-funded line. (KWRU BR 3)

Date: July 26, 2018

## **OPC**

OPC argued that KWRU should implement asset management principles for the benefit of customers as this would produce lower costs and enhanced service. (OPC BR 3) OPC also stated that there are issues with the Utility's wastewater operations, sewer service request, billing, and customer service. (OPC BR 3) For the problems with operation, OPC argued that customer testimony was provided regarding "unattended lift station alarms" and personnel sleeping in a Utility truck, as well as two DEP reported wastewater spills. (OPC BR 3) Two customers testified that wastewater service was requested, but KWRU has not yet provided service. (OPC BR 4) Related to billing, one customer testified to limited payment options, the format of bills, and checks that were not cashed by the Utility. (OPC BR 4) Another customer testified to billing issues, and that when attempting to visit the Utility's office, the customer was treated disrespectfully. (OPC BR 4) OPC argued that improvements should be made to KWRU's customer service and billing practices. (OPC BR 3-4)

## **Monroe County**

The County argued that KWRU's quality of wastewater treatment was adequate, despite filing an out-of-date DEP permit and two occasions of untreated wastewater being released. (County BR 13-14) However, based on customer testimony, the County stated that customers voiced dissatisfaction with the Utility's customer service and were opposed to the rate increase. (County BR 14) Customers also testified to lift station alarms that were unattended, an employee sleeping in a Utility truck, failure to provide service, billing issues, and poor customer service. (County BR 14)

## **ANALYSIS**

Pursuant to Rule 25-30.433(1), F.A.C., in wastewater rate cases, the Commission shall determine the overall quality of service provided by a utility.<sup>8</sup> This is derived from an evaluation of three separate components of the utility operations. These components are the quality of the utility's product, the utility's attempt to address customer satisfaction, and the operational conditions of the utility's plant and facilities.

### **Quality of Utility's Product**

Staff reviewed KWRU's DEP inspection report dated March 10, 2016, and KWRU's effluent disposal was rated in compliance with DEP standards. Additionally, the DEP determined that residuals were disposed of in accordance with the facility's permit. (EXH 4, P 180) Staff also requested complaints filed with the Utility during the test year. No complaints were filed with the Utility regarding the quality of KWRU's product. (EXH 4, P 247-249; EXH 89, P 119) Based on the discussion above, staff believes that the quality of KWRU's product is satisfactory.

### **The Utility's Attempt to Address Customer Satisfaction**

Two customer service hearings were held in Key West, Florida, on May 15, and 16, 2018. Eleven customers provided testimony at the two service hearings. Staff notes that this represents approximately 0.6 percent of KWRU's 1,865 customers. The primary subject of the comments

---

<sup>8</sup> Rule 25-30.433(1), F.A.C., was amended on July 11, 2018. Staff's analysis is based on the rule at the time of the Utility's filing.

provided by customers was in opposition to the rate increase. Table 1-1 provides a summary of the customer comments made at each service hearing.

**Table 1-1**  
**Customer Testimony from May 15, and 16, 2018 Service Hearings**

	<b>Customer Testimony Total</b>	<b>Against Rate Increase</b>	<b>Quality of Service</b>	<b>Billing</b>
May 15, 2018	6	5	1	1
May 16, 2018	5	5	0	1
<b>Total</b>	<b>11</b>	<b>10</b>	<b>1</b>	<b>2</b>

Note: Comments may be counted in more than one category.

Source: S1-TR 28-69; S2-TR 19-40

One customer testified that despite having finished construction of a new building two years ago, his property still had not been connected to the wastewater system. The customer also stated that a complaint had been filed with the Commission and the process was still on-going. (S1-TR 40) Witness Johnson testified that he spoke with the customer about options for the infrastructure needed for his property. The customer could pay the costs or wait for infrastructure that the County and the Utility are planning to put in. Witness Johnson stated that the customer expressed interest in waiting for the planned infrastructure. Witness Johnson further testified that KWRU would give priority to this customer and other customers who wished to be hooked up to the system. (TR 1044-1045)

Two customers testified to billing issues, specifically too small “postcard” bills, uncashed checks by the Utility, and changing bill balances. (S1-TR 52-63; S2-TR 26-28) Additional concerns that were raised at the two service hearings were a lift station alarm that was left unattended and a Utility employee that was sleeping in a Utility truck. (S1-TR 63; S2-TR 30) KWRU did not provide specific follow-up action related to these customers; however, the Utility was present at the service hearings and stated it was available for questions from customers. (S1-TR 15)

In addition to receiving customer testimony at the service hearings, staff requested complaints filed with the Utility, as well as complaints filed with the DEP for the test year. (EXH 4, P 247-249; EXH 89, P 119) As discussed under the Quality of Utility’s Product section, no complaints were recorded for the test year. Based on the limited number of complaints from the service hearings, staff believes that the Utility’s attempts to address customer satisfaction should be considered satisfactory.

### **Condition of Facilities**

KWRU’s service area is located in Monroe County. The wastewater treatment plant (WWTP) uses extended aeration to treat wastewater. Effluent is passed through a sand filter and disinfection is provided by chlorine gas. Effluent is disposed of through reuse service or shallow injection wells when reuse demand is not sufficient. (EXH 4, P 188)

Staff verified that the DEP Domestic Wastewater Facility Permit, provided as an exhibit by the County during the technical hearing, was up-to-date, and does not expire until February 19,

Date: July 26, 2018

2022. (EXH 137) On March 10, 2016, the DEP conducted a compliance evaluation inspection of KWRU's WWTP. By letter dated April 21, 2016, DEP notified KWRU that the WWTP was in compliance with the DEP rules and regulations. (EXH 4, P 179) Additionally, the Utility has no outstanding citations, violations, or consent orders on file with the DEP or the Monroe County Health Department. (EXH 4, P 239; EXH 83, P 34) Therefore, the condition of KWRU's facilities should be considered satisfactory.

### **CONCLUSION**

Staff believes that the quality of KWRU's product and the condition of the wastewater treatment facilities are satisfactory. Additionally, it appears that the Utility has attempted to address customers' concerns. Therefore, staff recommends that the overall quality of service for the KWRU wastewater system is satisfactory.

Date: July 26, 2018

**Issue 2:** Was the Utility's use of single source bidding reasonable and prudent for certain pro forma plant additions, and if not, what action should the Commission take regarding these pro forma projects?

**Recommendation:** Staff recommends sole source bidding for the WWTP rehabilitation project was appropriate. The bidding process used for the lift station replacement and modular office building was also appropriate. (Knoblauch)

### **Position of the Parties**

**KWRU:** Yes.

**OPC:** No. A prudent utility would obtain multiple bids in order to obtain an apples to apples comparison of bids. Since most of the "single source bidding" pro forma plant items have not been placed into service, the Commission should reduce the plant in service amount by 11.7% for this imprudent practice. In a subsequent proceeding, if the plant is placed into service, the Commission can verify the cost and prudence of the expenditures.

**Monroe County:** No. Truly competitive bidding will produce lower costs for the Utility and for its customers. KWRU's failure to pursue true competitive bidding for numerous capital items was imprudent, and the Commission should disallow 11.7% of the costs for those items from KWRU's rate base.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

KWRU stated that for the wastewater treatment plant rehabilitation, KWRU witness Castle testified that the project was sole sourced to the original plant designer, Evoqua, which was the only provider with access to the designs and specifications. (KWRU BR 3) The savings that could be seen from competitively bidding the project were not likely because of the additional costs associated with the development of the designs and specifications. (KWRU BR 3) The Utility stated that OPC witness Woodcock testified that the single source bid for the project was not reasonable and prudent, and the project costs should be reduced by 11.7 percent, which was derived from a wastewater treatment plant rehabilitation project undertaken by Utilities, Inc. of Florida (UIF). (KWRU BR 3)

KWRU argued that witness Woodcock testified at the hearing that in circumstances where proprietary information is involved, sole source bidding may be reasonable and prudent. (KWRU BR 3-4) KWRU asserted that when the Utility requested the designs and specification from Evoqua, it was denied because the information was proprietary. (KWRU BR 4) Based on an estimate from witness Castle, KWRU stated "the additional cost for designing the parts and creating bid documents would be \$170,000 . . . a 20 [percent] increase of the current project cost." (KWRU BR 4) Furthermore, even with the bid documents, KWRU argued that there would still be uncertainty on the proper sizing of parts. (KWRU BR 4)

Date: July 26, 2018

For the lift station, KWRU affirmed that the Utility attempted to obtain more than one bid for the project; however, Wharton Smith declined to bid. In addition, the Utility stated KWRU witness Johnson testified that since Hurricane Irma, the number of contractors has been in short supply. (KWRU BR 4) Related to the modular office space, KWRU argued that the modular vendor works to obtain the best price and value from multiple modular manufacturers. (KWRU BR 4) Therefore, a sole source bid was not utilized for the modular office project. (KWRU BR 5) Instead, the project was presented to three modular builders and two of the builders provided bids before one was ultimately selected. (KWRU BR 4-5)

### **OPC**

OPC argued that acquiring multiple bids allows a utility to complete a comparison of the bid amounts. (OPC BR 5) As several of KWRU's requested pro forma projects have not been placed into service, OPC asserted that the project amounts should be reduced by 11.7 percent for only obtaining a single bid. (OPC BR 5) Once the projects have been completed, OPC stated that the Commission can verify the expenditures and adjust rate base as needed. (OPC BR 5) For projects where only one bid was received, OPC argued that the project should be re-bid to acquire additional bids, which allows for the selection of the best cost option. (OPC BR 5) Furthermore, soliciting more than one bid is consistent with the Commission's past practice. (OPC BR 5)

OPC argued that KWRU did not obtain competitive bids for the lift station replacement, WWTP rehabilitation project, or the modular office replacement. (OPC BR 5) OPC witness Woodcock testified to his experience of using a service company to solicit bids, while KWRU witness Johnson testified that he had never utilized such a company. (OPC BR 5-6) OPC argued that the Utility could have used a service company to request additional bids as "[w]ithout competitive bids, there is no way to verify whether KWRU received the lowest or best price for its sole source projects." (OPC BR 6) For the projects with only one bid, OPC affirmed that the reasonableness of each project was not demonstrated by the Utility, and the project amounts should be reduced. (OPC BR 6)

### **Monroe County**

The County argued that obtaining competitive bids will result in lower costs and ensures that customers do not overpay for a utility's assets. (County BR 15) The County argued that it was imprudent of KWRU not to seek additional bids for the lift station, WWTP rehabilitation, and modular office projects. (County BR 15) The County agreed with OPC's recommendation of reducing the three projects requested amounts by 11.7 percent. (County BR 15)

## **ANALYSIS**

OPC witness Woodcock testified that competitive bids are important to ensure a utility and customers are not overpaying for a project. Additionally, the witness stated that this is true, particularly in an area such as the Florida Keys where there are high construction costs, limited resources, and restricted roadway access. (TR 337-338)

### **Wastewater Treatment Plants (WWTP) Rehabilitation**

In its filing, KWRU requested cost recovery for its WWTP rehabilitation project. (EXH 2, P 5) For the bidding process, KWRU witness Johnson testified that the Utility utilized a sole source bid for the rehabilitation project based on the recommendation of KWRU witness Castle. (TR

Date: July 26, 2018

144) In a memorandum to witness Johnson, witness Castle affirmed that the plants were originally designed by Evoqua, and the company should be a sole source provider for several reasons. First, dimensional and structural drawings of the plant and the individual components were not available to the Utility, and the fabrication of these components without the drawings could lead to an improper fit of the parts or structural failure. Additionally, the treatment units had specific characteristics to treat to advanced wastewater treatment (AWT) requirements, and changes to these characteristics could negatively impact the treatment process. The witness also stated that if the rehabilitation work was completed by another contractor, the Utility's process warranty provided by Evoqua would be void. (EXH 10)

OPC Witness Woodcock testified that none of the reasons discussed by witness Castle warranted KWRU not following Commission practice of obtaining at least three competitive bids. (TR 340) Addressing each reason, witness Woodcock contended that if the designs and drawings were unavailable, then they would also be unavailable to Evoqua. As for the treatment process and the rehabilitation of old components, witness Woodcock argued that the work needed for the rehabilitation project was not overly complex and was something that "another competent contractor could perform, if KWRU had competitively bid the project." (TR 341-342) As for the Evoqua warranty, witness Woodcock testified that a warranty could be provided by another package WWTP provider. (TR 342)

Witness Woodcock cited a recent UIF rate case in 2016, where UIF obtained three bids for its WWTP rehabilitation project. The witness affirmed that while some of the specifics differed between the projects, the scope of UIF's project was similar to KWRU's rehabilitation project. In UIF's case, the three bids were from Evoqua, FEC, and ECO-2000, Inc., ranging from \$1.526 million to \$1.704 million. Witness Woodcock stated that this range represented "a spread from lowest to highest of 11.7 [percent]," with Evoqua being the lowest bidder. (TR 343) Due to the fact that KWRU did not solicit more than one bid, witness Woodcock recommended reducing the project cost by 11.7 percent for the Utility "failing to comply with the Commission's practice." (TR 345)

KWRU witness Castle rebutted witness Woodcock's claim that the structural drawings were not available to Evoqua. Since Evoqua was the designer of KWRU's original plants, the detailed drawings and specifications belong to Evoqua. (TR 678) Witness Castle argued that for another contractor to construct detailed drawings, each treatment train would have to be taken offline, emptied, and cleaned, all of which would take time. The witness stated that the costs for preparing a competitive bid are typically recovered in the bid amount. Alternatively, unknowns in a project can increase the costs or if a project was bid with a minimal scope, it may ultimately lead to change orders for the recovery of unforeseen costs. (TR 683) Witness Castle testified that Evoqua had first-hand knowledge of the characteristics and process that were designed to meet AWT requirements as it was involved in the original design. (TR 678) At the hearing, witness Woodcock provided specific instances when a single source would be appropriate, one of which was the involvement of proprietary information. (TR 376-377) The Utility argued that the structural drawings are an example of proprietary information. (KWRU BR 4)

Based on the rebuttal testimony of witness Castle, staff believes that KWRU has sufficiently demonstrated that sole source bidding was appropriate for the WWTP rehabilitation project.

Date: July 26, 2018

Specifically, staff believes that the potential for additional costs associated with drawings, as well as Evoqua's existing knowledge of the facility support a sole source process.

### **Lift Station**

KWRU requested recovery of the costs for a lift station replacement in its MFRs. (EXH 2, P 5) The Utility stated that a sister lift station with the same design as the lift station in the present case was previously bid to two contractors, B&L Beneway and Wharton Smith, Inc. For the sister lift station, B&L Beneway was selected as it was "substantially less expensive, as a result of their local labor force and lack of need for housing." In this case, KWRU attempted to again obtain bids from B&L Beneway and Wharton Smith, Inc.; however, Wharton Smith, Inc. declined to offer a bid. (EXH 101)

Witness Woodcock testified that KWRU did not provide documentation that bids were obtained for the lift station replacement. When OPC requested the bids for the project, the Utility provided a bid from Wharton Smith, Inc. from 2014, which was for a nearby lift station, but not for the replacement of the requested lift station project. (TR 348) Additionally, the date of when KWRU requested bids for the project was not clear, and considering that Wharton Smith, Inc. was mobilized on site for another project, witness Woodcock assumed that a competitive bid could be offered for the lift station. (TR 349) Witness Woodcock recommended that the lift station project cost, similar to the WWTP rehabilitation project, be reduced by 11.7 percent for failing to obtain three competitive bids. (TR 350)

As an exhibit to witness Johnson's rebuttal, an email from Wharton Smith, Inc. was provided specifying that the company did not submit a bid because of remobilization costs as the company had already left the area. Additionally, Wharton Smith, Inc. stated that it could not compete with bids from local contractors. (EXH 62) Witness Johnson testified that this email supported KWRU's claim that it attempted to obtain two bids. (TR 887) Witness Woodcock argued in his surrebuttal testimony that an "after-the-fact-email" from Wharton Smith did not validate the bidding process used, and KWRU could have invited other local contractors to offer bids. Therefore, witness Woodcock held that the recommendation from his direct testimony remained the same. (TR 1108-1109)

Staff believes that the Utility attempted to obtain competitive bids from two contractors, which was consistent with the process that was used for a sister lift station to the one in this case. While Wharton Smith, Inc. declined to provide a bid for comparison to the bid offered by B&L Beneway, the previous lift station project was ultimately awarded to B&L Beneway since they provided the lowest cost. Based on these reasons, staff believes that the bidding process used for the lift station project was reasonable in this case.

### **Modular Office Building**

In its original filing, KWRU requested cost recovery for a new modular office building. KWRU witness Johnson testified that the Utility had signed a contract with PP Keys 2016, LLC, later corrected to Pabian Outdoor-Southeast, Inc. (EXH 23) KWRU stated that one of the reasons that Pabian Outdoor-Southeast, Inc. was selected for the installation of the modular office was because it was already mobilized in the area and due to its "relationships with modular manufacturers." (EXH 101) However, OPC witness Schultz testified that the Utility did not utilize a bidding process for the new office. (TR 590)



Date: July 26, 2018

Witness Johnson affirmed in his rebuttal testimony that the modular office was competitively bid and KWRU witness Pabian stated that Pabian Outdoor-Southeast, Inc. was a modular vendor and could acquire the best price based on multiple modular manufacturers. (TR 899-900) Witness Pabian testified that modular manufacturers do not usually sell directly to a consumer, but the sale occurs through a vendor. (TR 715) In response to discovery, the Utility identified that three modular manufacturers, Champion, Palm Harbor, and Jacobsen, were contacted for KWRU's office project and Champion offered the lowest price. (EXH 92, P 149) Witness Schultz rebutted that despite the additional information produced in witness Johnson's rebuttal testimony, requests for competitive bids were not provided. (TR 1073-1074)

As testified to by witness Pabian, costs from three different modular manufacturers were considered before a selection was made. (TR 715) Witness Pabian also affirmed that customers may not be able to purchase a modular building directly from a manufacturer; therefore, the customer may be required to go through a vendor. Considering witness Pabian's testimony, staff does not believe that a sole source bid was utilized for this project and that the bidding process used for the modular office building project was appropriate.

### **CONCLUSION**

As discussed above, staff recommends sole source bidding for the WWTP rehabilitation project was appropriate. The bidding process used for the lift station replacement and modular office building was also appropriate.

**Issue 3:** What adjustments, if any, should be made to account for the audit findings related to rate base?

**Recommendation:** No adjustments are necessary to rate base. (D. Andrews)

**Position of the Parties**

**KWRU:** None.

**OPC:** No audit adjustments are necessary to rate base.

**Monroe County:** Agree with OPC that no adjustments to rate base are necessitated by the audit findings.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its brief, KWRU stated that all Commission-ordered adjustments cited in Audit Finding 1 were recorded on the company books. (KWRU BR 5) Staff witness Glover agreed that all adjustments were recorded but to incorrect accounts. (TR 666) In her rebuttal testimony, KWRU witness Swain asserted that Audit Finding 1 should be reversed. (TR 763) Witness Glover deleted Audit Finding 2 after receiving further information from the Utility. (TR 664)

**OPC**

In its brief, OPC agreed with KWRU that no adjustments are necessary to plant or accumulated depreciation related the audit findings. (OPC BR 6; EXH 55) KWRU witness Swain provided details behind plant adjustments from the staff audit in the prior rate case. (EXH 56)

**Monroe County**

In its brief, the County agreed with OPC that no adjustments to rate base are necessitated by the audit findings. (County BR 15)

**ANALYSIS**

Audit Finding 1 addresses prior Commission-ordered adjustments. Witness Swain's rebuttal testimony conveyed that all Commission-ordered adjustments from the prior rate case were recorded by KWRU. (TR 762-763) Witness Swain agreed with staff witness Glover that all of the adjustments were made, but that some may have been to incorrect accounts. (TR 763) OPC agreed that KWRU's 2016 general ledger reflects the adjustments related to Audit Finding 1. (OPC BR 6; EXH 93) Witness Glover testified that Audit Finding 2 was stricken. (TR 664) Therefore, staff recommends no adjustments to rate base related to the audit.

**CONCLUSION**

Based on the above, no audit adjustments are necessary to rate base.

Date: July 26, 2018

**Issue 4:** What is the appropriate amount of plant in service to be included in rate base?

**Recommendation:** The appropriate balance of plant in service is \$18,851,107. Accordingly, plant in service should be decreased by \$1,036,688. (Knoblauch, D. Andrews)

**Position of the Parties**

**KWRU:** \$18,877,125

**OPC:** The appropriate amount of Utility Plant in Service to be used in setting rates is \$18,715,436.

**Monroe County:** The proper amount of Plant in Service to be included in calculating KWRU's rate base is \$18,715,436.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU argued that staff witness Glover and KWRU witness Swain were in agreement on the amount of plant in service of \$13,541,772, not including the pro forma plant and retirements. (KWRU BR 5) The amount of plant in service was revised from \$19,252,125 to \$18,877,125, based on "known and measurable" updates to the costs and retirements. (KWRU BR 5) Furthermore, KWRU argued that the reasonableness and prudence of the projects were not questioned by any witness; however, OPC witnesses Woodcock and Schultz claimed revisions to the original MFRs should not be included. (KWRU BR 5) KWRU provided three cases, which the Utility argued demonstrate that "[r]atingmaking is prospective in nature (sic), and it is Commission practice to make known and measurable changes." (KWRU BR 5-6)

KWRU summarized the adjustments to the requested pro forma projects, first stating that the WWTP rehabilitation project cost was updated and the reasonableness and prudence were not disputed in surrebuttal. (KWRU BR 7) The cost of the housing was increased for the chlorine contact chamber based on actual costs, and the generator cost was increased based on the purchase price of the generator and bids for the foundation. (KWRU BR 7) The tow-behind generator and sand sifter were also purchased and the project costs were updated. (KWRU BR 7) The service truck cost was adjusted based on the purchase price, as well as the costs related to the engine replacement. (KWRU BR 7) Finally, based on the invoice price, the cost of the telephone system was revised. (KWRU BR 7)

KWRU argued that the Utility reduced total plant in service based on retirements and adjustments to depreciation, all of which were a result of known and measurable costs. (KWRU BR 7) Including both pro forma adjustments and retirements, the total adjustment to plant in service is \$5,335,353, resulting in a total plant in service amount of \$18,877,125. (KWRU BR 7)

Date: July 26, 2018

## **OPC**

OPC argued that KWRU's requested utility plant in service of \$19,887,796 should be reduced by \$1,172,360. This reduction includes adjustments to pro forma plant, related retirements, and new plant to serve customers. (OPC BR 7) For pro forma plant, OPC asserted that the Utility did not seek competitive bids for the WWTP rehabilitation and lift station projects. OPC also argued that KWRU falsely claimed that the lift station was damaged during Hurricane Irma; however, OPC witness Woodcock "found the lift station functioning" and it did not appear to have structural damage upon inspection. (OPC BR 7) For failing to secure competitive bids for these projects, OPC recommended that the project cost should be reduced by 11.7 percent. (OPC BR 7-8)

OPC argued that, for the modular office replacement project, KWRU signed a contract with a non-existent company and did not solicit competitive bids from other contractors or modular suppliers. (OPC BR 8) Based on the terms of the agreement with the selected modular office contractor, Pabian Outdoor-Southeast, Inc., the completion date of March 31, 2018, was not met; however, OPC stated that "[t]here are no penalty or enforcement provisions in the original or revised contract to protect KWRU." (OPC BR 9) Additionally, the Utility did not disclose a business partnership between the modular office contractor and KWRU's ownership, which calls into doubt whether the contract is in the best interest of the customers. (OPC BR 8) For these reasons, OPC asserted that the cost of the modular office replacement project should be disallowed. (OPC BR 9) Related to the modular office, the requested telephone system depends on the modular office project. Based on the lack of evidence provided for the cost of the telephone system, as well as recommending that the new office be disallowed, OPC argued that the Utility's request for the telephone system should be denied as well. (OPC BR 10)

OPC argued that plant in service should be increased by \$566,134. (OPC BR 10) OPC pointed to an agreement between KWRU and the County to add plant to serve an additional 80 equivalent dwelling units (EDUs). In this contract, the County agreed to pay for the work; therefore, OPC argued that it should be included in contributions-in-aid-of-construction (CIAC) as well as plant in service.

OPC argued that retirements for the pro forma plant additions should be included for the replacement of the lift station, chlorine contact chamber, and generator. OPC agreed with the retirements provided by KWRU witness Swain, which included the retirement amounts of \$109,706 for the lift station, \$832,470 for the chlorine contact chamber, and \$128,257 for the generator. Therefore, OPC recommended that the utility plant in service balance should reflect total retirements of \$1,070,522. (OPC BR 11)

## **Monroe County**

In its brief, the County agreed with OPC. (County BR 16)

## **ANALYSIS**

In its filing, KWRU filed an adjusted test year plant in service amount of \$17,134,867. (EXH 2, P 5) Neither OPC nor the County disputed this amount. Therefore, staff recommends no adjustments to test year plant in service.

OPC and the County argued that \$566,134 should be added for pro forma plant in service to serve an additional 80 EDUs on South Stock Island. (EXH 119, P 1-3) As discussed later in Issues 6 and 15, staff recommends that no adjustment be made to impute CIAC in this case.

Section 367.081, F.S., provides that the Commission, in fixing rates, shall consider facilities to be constructed within a reasonable time in the future, not to exceed 24 months after the end of the historic base year used to set final rates, unless a longer period is approved by the Commission, to be Used and Useful (U&U) if such property is needed to serve current customers. KWRU's initial filing included 10 projects, each anticipated to be placed in-service within two years of the test year, totaling \$3,164,371. (EXH 2, P 5) KWRU updated the costs for seven of the 10 projects, increasing the requested amount by \$128,646. (EXH 54, P 3)

Table 4-1, below, summarizes the pro forma project amounts recommended by KWRU, OPC, and staff. Staff's analysis of each pro forma project is discussed below.

**Table 4-1**  
**Summary of Pro Forma Projects**

<b>Pro Forma Project</b>	<b>KWRU Initial Request (A)</b>	<b>KWRU Updated Request (B)</b>	<b>OPC Recom. Amount (C)</b>	<b>Staff Recom. Amount (D)</b>	<b>Staff Recom. Adj. (E = D – A)</b>
Sludge Drying Beds*	\$15,450	\$15,450	\$15,450	\$15,450	\$0
Sand Sifter*	44,300	43,110	43,110	43,110	(1,190)
Sand Sifter Retirement*	(36,443)	(36,443)	(36,443)	(36,443)	0
Chlorine Contact Chamber	1,071,814	1,109,960	1,071,814	1,102,080	30,266
Chlorine Contact Chamber Retirement	0	(832,470)	(803,861)	(826,560)	(826,560)
Tow-Behind Generator	83,470	57,916	0	57,916	(25,554)
Service Truck with Crane	74,174	65,105	44,777	65,105	(9,069)
WWTP Rehabilitation	1,104,764	1,165,523	983,483	1,189,124	84,360
Lift Station	146,393	146,393	123,620	146,393	0
Lift Station Retirement*	0	(109,795)	(92,715)	(109,795)	(109,795)
Generator	321,006	390,551	214,145	386,145	65,139
Generator Retirement*	0	(128,257)	(160,609)	(128,257)	(128,257)
Office Structures & Improvements	288,000	288,000	0	240,257	(47,743)
Office Retirement	0	(68,975)	0	(68,975)	(68,975)
Telephone System	15,000	11,009	0	11,009	(3,991)
Roof Repair**	0	4,680	4,680	4,680	4,680
<b>Total</b>	<b>\$3,127,928</b>	<b>\$2,127,667</b>	<b>\$1,331,059</b>	<b>\$2,091,239</b>	<b>(\$1,036,689)</b>

Source: EXH 2; EXH 54; TR 332-359; TR 581-62; TR 760-794

Note: Monroe County agreed with OPC's recommended pro forma projects amount.

\*All parties agreed on the pro forma project amounts.

\*\*Project was not included in KWRU's pro forma request, but was encompassed in its hurricane expenditures.

Date: July 26, 2018

### **Sludge Drying Beds and Sand Sifter**

In KWRU's initial filing, the Utility requested \$15,450 for the refurbishment of its sludge drying beds. (EXH 2, P 5) KWRU stated that the project, completed in August 2017, was for the refurbishment of sand and rock media in one of the four drying beds. (EXH 87, P 54) KWRU also provided invoices totaling \$15,450. (EXH 82, P 10) OPC witness Woodcock testified that considering the size of the project, "KWRU has provided sufficient justification to support the \$15,450 in improvements." (TR 339)

KWRU's initial filing also included \$44,300 for a new sand sifter. (EXH 2, P 5) KWRU witness Johnson testified that the project was for the replacement of an existing sand sifter that was inoperable following Hurricane Irma. (TR 151) The Utility received four bids for the project and selected the second lowest bid. KWRU asserted that the bid selected provided the best value in light of its warranty. (EXH 87, P 53-64) Staff notes that the difference between the two bids was \$1,265, which is less than 3 percent.

OPC witness Schultz testified that the actual cost of the sand sifter should be used, resulting in a decrease of \$1,190 from the original request. (TR 588) KWRU witness Swain agreed with witness Schultz, testifying that an amount of \$43,110 should be used for the sand sifter project. (TR 766)

Staff believes that the proper documentation was provided to support the costs of sludge drying beds and sand sifter projects. Therefore, also considering the parties agreement on the amounts for these projects, staff recommends that \$15,450 and \$43,110 are reasonable for the sludge drying beds and sand sifter projects, respectively. In addition, staff recommends a retirement amount of \$36,443 for the sand sifter. This amount was included in KWRU's MFRs and was not disputed by the parties.

### **Chlorine Contact Chamber**

KWRU's initial MFRs included \$1,071,814 for the chlorine contact chamber project. (EXH 2, P 5) KWRU witness Johnson testified that the scope of the project was to replace the chlorine contact chamber, which had been identified as a capital replacement prior to its rupture and failure following Hurricane Irma. (TR 145) The Utility solicited three bids from Wharton Smith, Inc., Reynolds Construction of Florida LLC, and Evoqua; however, Evoqua had a conflict of interest and did not provide a bid. (EXH 87, P 31) Wharton Smith was the lowest cost option, and the agreement between Wharton Smith and KWRU listed the project cost as \$935,000. (EXH 87, P 31; EXH 11) Witness Johnson testified that the Utility would ensure housing for the Wharton Smith employees at a cost of \$29,325. Witness Johnson explained that this saved over \$100,000 from the Wharton Smith bid. Including the housing, as well as the associated engineering costs, witness Johnson testified that the total cost for the chlorine contact chamber project was \$1,071,814. (TR 145) In his direct testimony, OPC witness Woodcock agreed with KWRU's requested amount of \$1,071,814. (TR 339)

In rebuttal, witness Johnson updated the cost of the housing to \$61,271, stating that "costs are higher than previously anticipated due to the project start-up coinciding with the most expensive rental weeks during peak tourist season." (TR 889) Witness Johnson also testified that an additional cost had been added to the project as a result of a work directive in the amount of \$6,200. (TR 889) The work directive was for testing of the coating system to be performed on

Date: July 26, 2018

the chlorine contact chambers and filters. (EXH 92; EXH 83) Witness Woodcock rebutted that these additional costs were not provided with enough time for discovery or review, and should be deferred to the Utility's next rate case. (TR 1109-1110)

OPC witness Schultz testified that a retirement amount was not reflected in KWRU's filing, but should be included for the chlorine contact chamber. (TR 594) Witness Schultz calculated a retirement amount of \$803,861 based on Commission precedent of utilizing 75 percent of the replacement cost. (TR 595; EXH 36, P 8) KWRU witness Swain testified that she agreed with witness Schultz that the chlorine contact chamber should be retired and 75 percent of the replacement cost was appropriate. (TR 770-772)

Both OPC and KWRU agreed on the original costs for the chlorine contact chamber, but disagreed on the updated cost for housing and inclusion of the work directive. Staff believes that the necessary documentation was offered by KWRU for the work directive, which was provided through discovery. (EXH 83, P 19) For the updated housing, staff made adjustments to the total cost based on invoices that were double counted or support was not provided. Staff believes the appropriate amount for housing is \$54,627. Therefore, staff recommends a total amount for the chlorine contact chamber of \$1,102,080, and a retirement amount of \$826,560.

### **Tow-Behind Generator**

A total of \$83,470 was requested for a new tow-behind generator to replace KWRU's portable generator, which was used to power lift stations in the event of a power outage. (EXH 2, P 5; TR 147) The Utility asserted that the original tow-behind generator became inoperable during Hurricane Irma and was beyond repair. Witness Johnson testified that DEP requires KWRU to operate its collection system at all times including when power is not available from an electric utility. (TR 147)

A quote was provided in an exhibit to witness Johnson's testimony, which totaled \$83,470 including shipping and tax. (EXH 16) In response to staff discovery, the Utility affirmed that two additional bids had been obtained for a new generator at a cost of \$70,263 and a used generator at a cost of \$29,412. KWRU further stated that the bidding process was still ongoing. (EXH 87)

Witness Woodcock testified that KWRU had given the bid amounts in response to discovery; however, the Utility did not provide copies of the two other bids not included as an exhibit to witness Johnson's direct testimony. Considering the range of bids for both new and used tow-behind generators, witness Woodcock stated that "KWRU should make a prudent decision that fits best with its operations to meet the needs of its customers at the lowest possible cost." (TR 353) However, since the Utility had not yet selected a tow-behind generator, witness Woodcock recommended that no amount be included for this project. (TR 354)

In his rebuttal testimony, witness Johnson testified that a tow-behind generator had been selected and purchased. The invoice was provided at a total cost of \$57,916. Witness Johnson stated that the Utility had purchased a new tow-behind generator as it delivered "the best value-for-money to the utility," had lower expected maintenance costs, and included a 2 year or 2,000 hour warranty. (TR 893) Witness Johnson also testified that KWRU will continue to utilize a rental portable generator until delivery of the new tow-behind generator, which it expected in mid-July. (TR 894)

Date: July 26, 2018

Taking into consideration that back-up power is needed for continued operation of the Utility's lift stations associated with complying with the DEP and the project was not disputed, staff believes that the tow-behind generator is prudent. Based on the three bids and the invoice provided by the Utility, as well as the considerations described by witness Johnson, staff recommends that a cost of \$57,916 is reasonable for the tow-behind generator.

### **Service Truck with Crane**

In witness Johnson's direct testimony, he testified that the Utility requested recovery for a service truck with crane for sewerage pump removals. Historically, KWRU utilized a third party for these services; however, they are not always available in emergency situations and delays in such situations can cause sewage back up. Witness Johnson specifically testified that this caused problems after Hurricane Irma when third parties were not available. Witness Johnson additionally testified that the Monroe County Jail routinely requires this type of equipment. (TR 148) The need for the truck was not disputed by parties in this docket. Staff believes that the record evidence sufficiently demonstrates that the proposed project will help the Utility provide adequate and reliable service.

The Utility estimated the cost of the service truck with crane to be \$74,174. (TR 148) OPC witness Schultz testified that KWRU, through discovery, presented updated amounts for the costs that had been incurred so far. The service truck was purchased at a price of \$40,163, and including additional costs such as tax, title, and license fees, the Utility determined the cost of the truck was \$44,777. (EXH 100, P 239) Witness Schultz recommended that the amount for the truck should be the costs that KWRU has incurred which was \$44,777, a reduction of \$29,397 from the original estimate. (TR 587)

Witness Johnson testified in his rebuttal testimony that he would agree with witness Schultz on the cost of the service truck with crane if additional costs had not arisen. Prior to purchasing the truck, KWRU employed an independent Ford mechanic to inspect the service truck. Following the purchase of the service truck, it was discovered that the engine had locked up and would require replacement. The cost of the new engine, associated parts and labor, and towing costs were established by the Utility to be \$20,328, bringing the total cost of the service truck to \$65,105. (TR 910-911)

Based on the testimonies of witness Johnson and witness Schultz, there appears to be agreement on the purchase price of the service truck. For the additional expenditures related to the engine replacement, KWRU has shown due diligence prior to purchasing the truck by having a Ford mechanic perform an inspection. Furthermore, the Utility provided invoices for the engine replacement and towing costs. Considering the arguments presented by KWRU and OPC, staff recommends that \$65,105 is reasonable for the service truck with crane project.

### **WWTP Rehabilitation**

KWRU requested \$1,104,764 for the rehabilitation of its wastewater treatment plant in its original filing. (EXH 2, P 5) Based on information provided by the Utility, periodic rehabilitation is required for steel plants and is necessary to ensure environmental and OSHA compliance. (EXH 87, P 59-60) No party presented evidence that the WWTP rehabilitation was not needed.



Date: July 26, 2018

Witness Johnson testified that the project cost included the materials, equipment, demolition, installation, and paint to rehabilitate the existing wastewater treatment plants, as well as the clarifier and digester. The total project amount also contains the costs for blasting and repairing the air headers on each plant, surfacing epoxy for each plant and digester, and the engineering fees for the project. (TR 144) Based on the recommendation of KWRU's witness Castle, the rehabilitation project was sole source bid to Evoqua, who designed and fabricated the existing wastewater treatment plants. (EXH 79) Witness Castle testified that the structural drawings and specifications for the Evoqua fabricated plants were not available to the Utility. As a result, the generation of this information would present an additional cost if the project were to be undertaken by a WWTP fabricator other than Evoqua. The witness also emphasized that since Evoqua had designed the original plants, any modifications to the systems would void an existing warranty. (EXH 79)

Witness Woodcock testified that the argument laid out by witness Castle did not give Evoqua a significant advantage over other potential contractors. (TR 340-341) Based on the information provided, other contractors would presumably be able to complete the necessary rehabilitation work and would be able to offer a warranty of their own in the event of a void warranty from Evoqua. Therefore, the Utility should have obtained three competitive bids considering the scale of the project. (TR 342-344)

Witness Woodcock cited a recent rate case with UIF in 2016, where the utility obtained three bids for its WWTP rehabilitation project. The witness affirmed that while some of the specifics differed from the project in the present case, the scope of UIF's WWTP project was similar to KWRU's. In UIF's case, the three bids were from Evoqua, FEC, and ECO-2000, Inc., ranging from \$1.526 million to \$1.704 million. Witness Woodcock stated that this range represented a spread of 11.7 percent from lowest to highest with Evoqua being the lowest bidder. (TR 343) Due to the fact that KWRU did not solicit more than one bid, witness Woodcock recommended reducing the project cost by 11.7 percent or \$114,075 for the Utility "failing to comply with the Commission's practice." (TR 345)

In his rebuttal testimony, witness Johnson included additional costs for liquid hauling, debris removal, and the replacement of davits and a gear clarifier drive. Witness Johnson testified that the Utility has the ability to pump the treatment plants down to four feet using in-house employees, but the remaining sludge must be removed by a subcontractor. (TR 889-890) In-house employees will handle the labor for debris removal; therefore, KWRU included the cost of dumpsters for debris disposal. (TR 890-891) Witness Johnson also testified that the Utility's maintenance staff discovered several davits and the gear clarifier drive that needed replacement, both of which were not originally known. These additional costs total \$60,759, resulting in an updated project cost of \$1,165,523. (TR 891)

In witness Woodcock's surrebuttal, the witness testified that the inclusion of costs for liquid hauling and debris removal in witness Johnson's rebuttal testimony were known costs. Since these costs were known and excluded from the contract with Evoqua, they should have been included in witness Johnson's direct testimony to allow for discovery review of the costs. For the davits and gear clarifier drive costs, witness Woodcock recommended that these costs be

Date: July 26, 2018

deferred until the Utility's "next rate case when the project is complete and documentation is available so that all changes can be considered." (TR 1111)

As discussed in Issue 2, staff believes the use of a sole source bid was appropriate in this case given that Evoqua was the original manufacturer of the wastewater treatment plants and the production of new structural drawings would have added additional costs to the project. Based on the presented testimony, the rehabilitation project appears to be prudent.

While staff agrees with the presented costs for the WWTP rehabilitation, sludge hauling, dumpsters, and replacement parts, staff believes two adjustments should be made to the engineering costs. Staff included the engineering invoices provided by witness Johnson, as well as additional engineering invoices that were incorrectly assigned to the chlorine contact chamber project. Staff also included engineering invoices that were originally charged to contractual services – engineering expense, but OPC witness Schultz identified the costs to be related specifically to the WWTP rehabilitation project. For the engineering invoice additions, staff made corresponding adjustments to the chlorine contact chamber project and contractual services – engineering expense.

Staff recommends a total cost of \$1,189,124 for the WWTP rehabilitation, which is comprised of the contract amount for the rehabilitation of the two plants, engineering and man hours, sludge hauling, dumpsters, clarifier drive and davits replacements, and KWRU's employee salaries for the tanks' pump down and cleaning. Staff notes that the total cost for the WWTP rehabilitation project includes employee salaries for the tanks' pump down and cleaning, which is not reflected in the Utility's total cost, as well as the invoices that were re-classified to the rehabilitation project.

### **Lift Station**

In its original filing, KWRU requested \$146,393 for a new lift station and electrical panel, which was damaged during Hurricane Irma. (EXH 2, P 5; TR 145) Witness Johnson testified that even before Hurricane Irma, the lift station had been identified as part of the capital improvement replacement schedule due to its poor condition and advanced age. (TR 145) When soliciting bids, the Utility was only able to obtain one bid for the project. When initiating the bidding process for another lift station with the same design in 2014, KWRU had obtained bids from B&L Beneway and Wharton Smith, Inc. B&L Beneway was ultimately awarded the bid due to the lower project cost and the ability to provide local labor. For the present case, the Utility attempted to obtain bids for the lift station from the same two contractors; however, Wharton Smith, Inc. declined to submit a bid. (EXH 101, P 10) KWRU provided the contract with B&L Beneway for the replacement of the lift station at a cost of \$140,000. (EXH 13) KWRU also included an amount for the replacement of the lift station's electrical panel for a total project cost of \$146,393. (EXH 83, P 20)

OPC Witness Woodcock stated that the Utility's explanation for only obtaining one bid for the lift station replacement did "not sound plausible." The witness affirmed that Wharton Smith, Inc. is mobilized onsite for the chlorine contact chamber replacement project, and could have provided a competitive bid for the lift station. (TR 349) Since the Utility did not secure at least three competitive bids for the lift station, witness Woodcock testified that the same method that was used for the WWTP rehabilitation project should be applied. Thus, the lift station project

Date: July 26, 2018

cost of \$140,000 should be reduced by 11.7 percent or \$16,380. (TR 350) Additionally, at the time of filing of witness Woodcock's testimony, the quote for the electrical panel had not been provided by the Utility, and the witness disputed the inclusion of the electrical panel costs due to a lack of documentation. Therefore, witness Woodcock recommended that the project cost should be reduced by a total of \$22,773. (TR 350)

In his rebuttal testimony, witness Johnson contested witness Woodcock's claim that the Utility only acquired one bid. As discussed in witness Johnson's direct testimony, Wharton Smith, Inc. declined to offer a bid for the lift station project. Through correspondence with witness Johnson, a division manager of the company stated that the company declined to offer a bid "due to the high cost of our remobilization considering we had already left the area. Consequently, we assumed that our number would not be competitive with any of the local contractors that decided to bid..." (TR 887; EXH 62) Witness Johnson also contended that the same bidding process was used in 2014, when the cost of the lift station replacement in that case was determined to be reasonable. (TR 888)

Considering the lift station was previously identified for replacement and the damage sustained during Hurricane Irma, staff believes the project is necessary. As discussed in Issue 2, KWRU provided support that the Utility attempted to obtain competitive bids and B&L Beneway, which had provided the lowest bid for a similar lift station replacement in 2014, was the only contractor to offer a bid. KWRU provided the contract with B&L Beneway, as well as documentation for the electrical panel replacement. (EXH 13, EXH 63) Therefore, staff recommends \$146,393 for the lift station project, which includes the B&L Beneway contract amount of \$140,000, and the electrical panel replacement of \$6,393. OPC witness Schultz and KWRU witness Swain agreed that the lift station should be retired and 75 percent of the replacement cost was appropriate. (TR 595; EXH 36, P 8; TR 770-77) Thus, staff recommends a retirement amount of \$109,795 for the lift station.

### **Generator**

KWRU requested \$321,006 for the replacement of a backup generator to replace its existing standby generator, which the Utility indicated was nonoperational. (EXH 2, P 5, TR 146) KWRU witness Johnson asserted that the requested cost included the price of the generator, installation, the associated parts and materials, foundation pad and anchoring, and engineering costs. (TR 146) At the time of filing of witness Johnson's testimony, the costs for the installation and foundation pad were based on estimates, and neither invoices nor bids had been provided for these two components. As previously mentioned for the tow-behind generator, witness Johnson testified that the Utility is required to have backup power generation to maintain its treatment process at all times, as required by DEP. (TR 146)

OPC witness Woodcock testified that the original cost listed in witness Johnson's testimony for the generator was \$230,736, which witness Johnson had supported with a quotation from a generator manufacturer. (TR 351) However, witness Woodcock stated that through discovery, KWRU provided an invoice of \$189,875. (TR 351) For the installation and foundation pad estimates, witness Woodcock asserted that these costs were unsupported and should not be included. (TR 352) Witness Woodcock testified that the engineering costs provided were reasonable and the amount should be included in rate base. Taking into account these

Date: July 26, 2018

adjustments, witness Woodcock recommended a total cost of \$214,145 for the backup generator. (TR 352)

In his rebuttal, witness Johnson agreed with witness Woodcock that the correct cost of the generator was \$189,874. (TR 891) Witness Johnson also included two bids from Wharton Smith, Inc. and Coral Construction, Inc., for the foundation pad, and stated that a third contractor had declined to provide a bid. (TR 891-892) Despite its bid being higher than Coral Construction, Inc., Wharton Smith, Inc. was awarded the project because the contractor could begin work immediately and would be able to complete the project “a minimum of 3 weeks sooner than other contractors.” Based on the updated costs, witness Johnson testified that the total project cost was \$390,552. (TR 892)

OPC witness Schultz testified that a retirement amount of \$160,609 should be included for the generator using 75 percent of the replacement cost. (TR 595; EXH 36, P 8) KWRU witness Swain agreed that the generator should be retired, but disagreed with witness Schultz on the amount. Witness Swain testified that the cost of the generator being replaced was known; therefore, the appropriate retirement amount was \$128,257. (TR 772-773)

Considering that witness Woodcock did not dispute the need for the WWTP backup generator, and that backup power is required by DEP, staff believes the generator project is prudent. Staff believes the requested cost for the generator is reasonable as it was the lowest bid out of three bids, and the generator invoice was provided by KWRU. (EXH 66) Staff also believes that the engineering costs are reasonable as they were not disputed by witness Woodcock, and the Utility provided documentation to support the amount. (EXH 15) KWRU also offered two bids for the generator foundation pad of \$176,407 and \$172,000, and stated that the higher bid was selected due to Wharton Smith, Inc.’s ability to complete the project three weeks earlier. (TR 892) However, the Utility indicated that the generator project was dependent on both the chlorine contact chamber and WWTP rehabilitation projects, which have been delayed. (EXH 87, P 59-64) Therefore, staff does not believe this reasoning justifies the selection of the higher bid, and staff recommends \$172,000 for the foundation pad. Staff recommends a total cost for the generator project of \$386,145, which includes the costs of the generator, engineering, and foundation pad. Additionally, staff recommends a retirement amount of \$128,257 for the generator.

### **Office Structures & Improvements**

KWRU requested \$288,000 for a new modular office in its initial filing. (EXH 2, P 5) The project amount includes the costs for the modular office, demolition and removal of the Utility’s existing office trailer, and the materials and labor for the new office’s concrete slab. (TR 149) Witness Johnson testified that the Utility has had its current office trailer since 2002, and it was determined following Hurricane Irma that the trailer had sustained water damage. Additionally, witness Johnson noted that “[t]he office has mold which led to an employee’s resignation due to workplace conditions.” (TR 148) For the design of a new office, KWRU used 1,200 as the square footage for a modular office and signed a modular office installation agreement with PP Keys 2016, LLC. The Utility and PP Keys 2016, LLC agreed to a cost cap of \$250,000 and installation of the office by March 31, 2018. (TR 148-149; EXH 23) The other project costs

Date: July 26, 2018

include \$13,000 for the demolition and hauling of the old trailer and \$25,000 for the concrete slab. (TR 149)

OPC witness Schultz testified that based on information provided by the Utility, it did not appear that the installation date of March 31, 2018 would be met. Also, witness Schultz affirmed that KWRU did not use a bidding process for the selection of a builder, and the witness was unable to identify a company by the name of PP Keys 2016, LLC through the State of Florida Division of Corporations. While witness Schultz agreed that a new office building was needed, the witness testified that the cost was excessive and unsupported. (TR 589)

In witness Johnson's rebuttal testimony, he testified that the size of the office building had been updated to 1,577 square feet, and supplied the floor plan for the office. Witness Johnson agreed that the office had not been installed by March 31, 2018, due to revisions to the design and manufacturer delays, but projected a completion date of December, 2018. (TR 899) Regarding the agreement with PP Keys 2016, LLC, the witness asserted that the company name was a "scrivener's error," and Pabian Outdoor-Southeast, Inc. is the correct entity. (TR 901) Witness Johnson testified that the office was competitively bid as Pabian Outdoor-Southeast, Inc., a modular office vendor, which acquires "quotations from multiple manufacturers to obtain the best potential pricing." (TR 900) Witness Johnson also testified that construction costs in the Florida Keys are high due to materials being shipped in and the high cost of living. For the demolition costs, witness Johnson provided two bids, and stated that until the office plans are approved, the Utility cannot yet solicit bids for the concrete slab. (TR 900)

OPC witness Schultz identified a payment of \$19,393 that KWRU received for an insurance claim on the existing office trailer. (TR 608) Witness Schultz contended the insurance proceeds should be recognized by offsetting the total requested hurricane expenses. (TR 609) In her rebuttal testimony, KWRU witness Swain agreed that the insurance proceeds should be used to reduce hurricane costs. (TR 777) However, as the insurance proceeds are directly related to the existing office trailer, staff believes it is more appropriate to apply the \$19,393 as a reduction to the cost associated with the replacement project.

Witness Schultz testified that a retirement amount for the office was not included in KWRU's filing; however, an amount was not determined by the witness based on his recommendation that the office be excluded from rates. (TR 595) KWRU witness Swain testified that using the original costs of the office to be replaced, the appropriate retirement amount was \$68,975. (TR 772)

In view of the current condition of KWRU's office, which was damaged during Hurricane Irma, and the agreement of witness Johnson and witness Schultz that a new office is needed, staff believes that the new office project is prudent. The Utility affirmed that quotations from three manufacturers were considered before a manufacturer was selected. Considering this, as well as a signed contract with Pabian Outdoor-Southeast, Inc. and a not-to-exceed cost of \$250,000, staff believes the cost of the modular office is reasonable. For the demolition of the old office, witness Johnson testified that two bids in the amounts of \$14,000 and \$9,650 had been received, and the Utility was waiting on a third bid. Witness Johnson also testified that until the modular plans were approved, bids for the concrete slab could not be obtained. Staff included \$9,650 for the demolition costs, and excluded the estimate for the concrete slab as the Utility did not provide

Date: July 26, 2018

support for this cost. Staff recommends a total cost of \$240,257 for the modular office building, which includes the costs of the office and demolition of the old office, as well as the insurance claim reduction. In addition, staff recommends a retirement amount of \$68,975 for the new office building.

### **Telephone System**

In its original filing, KWRU requested \$15,000 for a new telephone system. (EXH 2, P 5) Witness Johnson testified that the Utility's voice and data communication through Comcast had been knocked out completely following Hurricane Irma. Furthermore, KWRU continued to experience service issues and decided to switch its primary provider to AT&T for better reliability. The project costs include the service contract, set-up in the temporary office and then relocation to the modular office, equipment, and labor. (TR 147) The monthly service amount of \$1,054 for the phone system will be discussed in Issue 28. Witness Johnson affirmed that the Utility will be keeping the Comcast phone system for redundancy related to the supervisory control and data acquisition system (SCADA). (TR 148)

OPC Witness Schultz testified that he did not agree that redundancy of phone service was necessary. The witness stated that he had "not encountered a utility requesting a phone system redundancy such as in this case" and it was unreasonable to require ratepayers to pay for two separate phone systems (TR 597) However, Witness Schultz recommended that the monthly costs for the new system should be included, but did not recommend any capital costs for the project. (TR 597-598)

Witness Johnson rebutted that a backup phone service was necessary due to KWRU's employment of a SCADA, which allows the Utility to operate with one shift instead of two shifts, pursuant to its DEP operating permit. Since SCADA requires an internet connection to operate, reliable telecommunications is needed. (TR 901) Witness Johnson included a letter from Information Technology Solutions, LLC, which outlined that backup internet service for redundancy purposes was key to "critical safety operation of machinery that requires internet connectivity for offsite monitoring." (TR 901-902) Witness Johnson further stated that interruptions to service could result in the potential for system-wide failures and the possibility of sewer backups and spills. (TR 902)

Staff agrees with KWRU that reliable phone and internet service is necessary for the operation of SCADA, which ensures that the Utility is in compliance with its DEP operating permit. Therefore, staff believes that redundancy of services is reasonable for the present case. In response to discovery, the Utility provided invoices for monthly phone service and installation costs. Witness Johnson included equipment and installation costs of \$3,989 for the new phones, as well as installation costs of \$7,020 for the voice, data, and computer infrastructure into the new office. Staff believes that the documentation provided by KWRU supports a total cost of \$11,009 for the new phone system.

### **Roof Repair**

In KWRU witness Johnson's direct testimony, the witness testified that an amount of \$4,680 for a roof repair was included in the Utility's requested hurricane expense. (TR 151) Staff determined that this was a capital cost, and was removed from hurricane expenditures. In his direct testimony, KWRU witness Johnson included a quote for the roof repair as an exhibit.

Date: July 26, 2018

(EXH 24) The amount for the roof repair was not disputed by OPC witness Schultz, and staff recommends that a cost of \$4,680 is reasonable for the roof repair.

### **CONCLUSION**

Based on the discussion above, the appropriate balance of plant in service is \$18,851,107, not including land. Accordingly, plant should be decreased by \$1,036,688.

Date: July 26, 2018

**Issue 5:** What is the appropriate amount of accumulated depreciation to be included in rate base?

**Recommendation:** The appropriate balance of accumulated depreciation to be included in rate base is \$5,236,657. Accordingly, accumulated depreciation should be reduced by \$1,041,034. (D. Andrews)

**Position of the Parties**

**KWRU:** \$5,039,764

**OPC:** The appropriate amount of Accumulated Depreciation to be used in setting rates is \$5,193,207.

**Monroe County:** The proper amount of Accumulated Depreciation to be including in calculating KWRU's rate base is \$5,193,207.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU argued that after adjustments related to updated pro forma plant requests and retirements identified by OPC witness Shultz, accumulated depreciation should be reduced to \$5,140,844. (EXH 54, P 3) The Utility also argued that further adjustments should be made to reduce accumulated depreciation by \$101,079 to correct annualization and reclassification adjustments. (KWRU BR 8-9)

**OPC**

OPC argued that adjustments related to pro forma projects and retirements discussed in Issue 4 should reduce accumulated depreciation by \$17,587 and \$1,070,522, respectively. (OPC BR 11) Witness Shultz also reviewed the annualization adjustments and contended that correctly annualizing accumulated depreciation would reduce it by \$21,539. (TR 593-594) OPC also increased accumulated depreciation by \$25,162 in relation to the addition of \$566,134 for prospective Stock Island customers as discussed in Issue 4. (OPC BR 12) These adjustments resulted in OPC recommending \$5,193,207 of accumulated depreciation to be included in rate base. (OPC BR 12)

**Monroe County**

In its brief, the County agreed with OPC that accumulated depreciation in rate base should be \$5,193,207. (County BR 16)

**ANALYSIS**

In KWRU's filing, the Utility reflected test year accumulated depreciation of \$6,490,653 along with adjustments to decrease accumulated depreciation by \$265,211 in the test year and to



Date: July 26, 2018

increase accumulated depreciation by \$52,251 as corresponding adjustments to its pro forma plant request. (EXH 2, P 5-6)

In its filing KWRU reflected test year adjustments to annualize accumulated depreciation for plant added during the test year. (EXH 2, P 5) However, KWRU only annualized plant in service related to the AWT plant expansion. (EXH 2, P 5) OPC argued that KWRU incorrectly calculated this annualization adjustment and should reduce this adjustment by \$21,539. (TR 593-594) In her rebuttal testimony, KWRU witness Swain agreed that these adjustments were incorrect but argued that they were unnecessary because the Utility had already included six months of depreciation in accumulated depreciation. (TR 768) Staff recommends that only accumulated depreciation related to the AWT plant expansion should be annualized. Witness Swain also argued that correcting adjustments should be made to reclassify accumulated depreciation with a one-half year convention related to a reclassification adjustment for the AWT plant expansion which was made in the MFRs. (EXH 2, P 5; TR 768-769) Staff agrees with witness Swain that accumulated depreciation should be reclassified but recommends including a full year of depreciation for the AWT plant expansion. Staff recommends increasing accumulated depreciation by \$10,842 for the AWT plant expansion. Staff also recommends reducing accumulated depreciation by \$7,845 to remove annualization adjustments for routine plant additions.

Additionally, the appropriate corresponding adjustments to accumulated depreciation for pro forma plant discussed in Issue 4 is a decrease of \$1,044,031 to reflect the pro forma plant projects, along with associated retirements.

In Issue 4, OPC argued to increase plant by \$566,134 for plant additions to serve additional customers. (OPC BR 12) OPC proposed a related adjustment to increase accumulated depreciation by \$25,162. As discussed in Issues 4, 6, and 15, staff recommends no adjustment related to this contract.

## **CONCLUSION**

Based on staff's recommended adjustments, the appropriate balance of accumulated depreciation to be included in rate base should be \$5,236,657, which reflects a decrease of \$1,041,034 (\$10,842 - \$7,845 - \$1,044,031).

**Issue 6:** What is the appropriate amount of CIAC to be included in rate base?

**Recommendation:** The appropriate amount of contributions-in-aid-of-construction (CIAC) to be included in rate base is \$10,406,318. Accordingly, there should be no adjustments to CIAC. (D. Andrews)

**Position of the Parties**

**KWRU:** \$10,406,318

**OPC:** The appropriate amount of CIAC to be used in setting rates should be increased by \$566,134, for a total CIAC balance of \$10,972,452. The evidence shows that KWRU will receive \$566,134 from the County to allow KWRU to provide service to all customers in its service territory notwithstanding KWRU's failure to previously interconnect these customers.

**Monroe County:** The proper amount of CIAC to be included in calculating KWRU's rate base is \$10,972,452.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU witness Swain proposed \$10,406,318 of CIAC in the original MFRs. (EXH 2, P 15) The Utility stated that the audit agreed with this number and no other testimony was provided at the hearing to dispute this. (KWRU BR 10) KWRU argued that any attempt to impute CIAC for future connections is prohibited by Section 367.081(2)(a)1., F.S. (KWRU BR 10)

**OPC**

OPC argued that CIAC should be increased by \$566,134 for a total of \$10,972,452 in order to provide service to an additional 80 EDUs. (EXH 119) OPC stated that KWRU entered into an agreement to add plant to serve new customers and that the County has agreed to pay \$566,134 to KWRU to help provide this service to all new customers in its service territory. (OPC BR 12)

**Monroe County**

The County also argued that CIAC should be increased by \$566,134 for a total of \$10,972,452. (County BR 16-17) The County pointed to witness Swain's testimony where she agreed that if the County does pay for additional work that is agreed upon in a contract between the County and KWRU, it should be included in CIAC. (TR 835-836)

**ANALYSIS**

In its filing, KWRU reflected test year CIAC of \$10,406,318. (EXH 2, P 15) The staff audit found no issue with this amount and neither OPC nor the County argued against the test year balance.

OPC and the County argued that both CIAC and plant in service should be increased by \$566,134. (OPC BR 12; County BR 16-17) This argument is based on a contract signed between

Date: July 26, 2018

the County and KWRU on March 21, 2018, whereby the County will pay \$566,134 to KWRU for additional work to complete connection points for 80 equivalent dwelling units on South Stock Island. (EXH 119, P 1-3) Although this contract does signify the intent of KWRU to build \$566,134 worth of plant, paid for by the County, it does not provide assurance that this amount has been put into service by the Utility. Witness Swain agreed that this amount should be included in CIAC at the time it is paid. (TR 835-836) However, KWRU argued that this and any other amount of CIAC related to future connections should not be included in this case. (KWRU BR 10)

Section 367.081(2)(a)1., F.S., states that the Commission shall not impute prospective future CIAC against the Utility's investment. Additionally, witness Swain testified that it is inappropriate to use the matching principle as justification for the addition of CIAC from future customers while excluding the impacts these future customers would have on other ratemaking components contained within the MFRs in this case. (TR 791) As discussed in Issue 15, staff agrees with KWRU's position that the pro forma investment is not growth related, the anticipated growth is not extraordinary, and there are no additional quantified expenses associated with the additional demand. (TR 791) Based on the above, staff recommends not including the addition of \$566,134 to CIAC.

### **CONCLUSION**

The appropriate amount of CIAC to be included in rate base is \$10,406,318. Accordingly, there should be no adjustments to CIAC.

**Issue 7:** What is the appropriate amount of accumulated amortization of CIAC to be included in rate base?

**Recommendation:** The appropriate amount of accumulated amortization of CIAC to be included in rate base is \$3,898,064. Accordingly, there should be no adjustments to accumulated amortization of CIAC. (D. Andrews)

**Position of the Parties**

**KWRU:** \$3,898,064

**OPC:** The appropriate amount of accumulated amortization of CIAC to be used in setting rates is \$3,923,226.

**Monroe County:** The proper amount of Accumulated Amortization of CIAC to be included in calculating KWRU's rate base is \$3,923,226.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU argued that the staff audit took no exception with the MFR amount of \$3,898,064 and no other testimony or evidence at hearing disputed this amount. (KWRU BR 10)

**OPC**

OPC argued that an adjustment should be made to reflect a half-year of amortization for the proposed adjustment to CIAC in the previous issue. (OPC BR 13) OPC asserted that the accumulated amortization of CIAC should increase by \$25,162 for an adjusted balance of \$3,923,226. (OPC BR 13)

**Monroe County**

The County argued that accumulated amortization of CIAC should be \$3,923,226 to account for the corresponding proposed adjustment in the previous issue. (County BR 17)

**ANALYSIS**

In KWRU's filing, the Utility reflected test year accumulated amortization of CIAC in the amount of \$3,898,064. (EXH 2, P 4) The staff audit made no finding opposing this amount and there was no evidence submitted to dispute this as the test year amount. (EXH 52) As discussed in Issues 6 and 15, staff does not agree with OPC and the County's proposed adjustment to include additional CIAC and the associated accumulated amortization of CIAC for increased plant. Therefore, staff recommends no adjustments to accumulated amortization of CIAC.

**CONCLUSION**

The appropriate amount of accumulated amortization of CIAC to be included in rate base is \$3,898,064. Accordingly, there should be no adjustments to accumulated amortization of CIAC.

Date: July 26, 2018

**Issue 8:** What are the used and useful percentages of the Utility's wastewater treatment plant and wastewater collection system?

**Approved Stipulation:** The Wastewater Collection System is 100% Used and Useful; the Wastewater Treatment Plant is 71.5% Used and Useful.

**Issue 9:** What is the appropriate working capital allowance to be included in rate base?

**Recommendation:** The appropriate working capital allowance to be included in rate base is \$1,095,946. Therefore, working capital allowance should be reduced by \$1,123,186. (Sewards)

**Position of the Parties**

**KWRU:** \$2,269,090.

**OPC:** The appropriate working capital allowance is \$935,853

**Monroe County:** The proper amount of Working Capital to be included in calculating KWRU's rate base is \$935,853.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU stated the appropriate working capital allowance is \$2,269,090. (EXH 54, P 4; KWRU BR 11) The components of working capital which KWRU specifically addressed include: cash, deferred rate case expense, and the FPSC escrow funds.

The Utility asserted that reduction of cash approved in the previous rate case was made in error.<sup>9</sup> (KWRU BR 11) According to KWRU, the capital account was not utilized in the previous case due to a permit appeal filed. (TR 899; KWRU BR 11) The Utility contended that since the conclusion of the permit appeal case, it has spent over seven million dollars on capital projects. (TR 898; KWRU BR 11) KWRU stated that each month of the test year, at least one million dollars passed through the Utility's bank accounts. (TR 862; KWRU BR 11) The Utility indicated this significant cash flow necessitates cash on hand of \$911,826. (TR 898; KWRU BR 11)

The Utility stated that deferred rate case expense from the last rate case should only be adjusted for two months of amortization. (TR 765; KWRU BR 12) KWRU continued that Schedule A-3 of the MFRs included an adjustment of six months for deferred rate case expense. (KWRU BR 12) Therefore, the Utility contended that working capital allowance should be increased by \$24,798 to reflect only two months of amortization. (TR 765; KWRU BR 12)

In its brief, KWRU also contended that the "FPSC Escrow Funds" should be included in working capital allowance. (KWRU BR 12) The Utility stated that the escrow account was a collection of 43.94 percent of all revenues collected per Order No. PSC-16-0123-PAA-SU, and was deposited into an interest bearing account as required. (KWRU BR 12) At the conclusion of the previous rate case, KWRU was only required to refund 7.43 percent of revenues collected. (KWRU BR 12) The Utility claimed that the remaining balance of \$197,697 was transferred to the operating account and, therefore, should be included in working capital allowance. (TR 862-863; KWRU BR 12)

---

<sup>9</sup> Order No. PSC-16-0123-PAA-SU, pp. 9-10.

Date: July 26, 2018

## OPC

In its brief, OPC stated the requested working capital allowance of \$2,269,090 is excessive and should be reduced. (OPC BR 13)

OPC contended the cash balance of \$911,826 represents 25 percent of the Utility's requested revenue requirement and argued this amount represented an excessive increase over the amount approved in the most recent rate case, less than a year ago. (TR 583-584; OPC BR 13) OPC asserted that working capital allowance is a measurement of cash required to fund day-to-day operations. (OPC BR 14) As such, OPC refuted the Utility's claim that it required infusions to meet financial obligations in July and August of 2016. (OPC BR 14) OPC also indicated that the Final Order in the last rate case reduced the cash balance to recognize that building a major plant expansion did not support the need for such a large balance of cash.<sup>10</sup> (OPC BR 14) OPC concluded that cash in working capital should be established as \$284,573. (OPC BR 15)

OPC also addressed the inclusion of the FPSC escrow account and customer escrow account. (OPC BR 15) OPC opined that these accounts were interest bearing and should not be included in working capital based on Commission practice. (TR 585; OPC BR 15)

OPC also discussed unamortized rate case expense. OPC stated that the Utility included a balance of \$438,000 from its prior rate case. (EXH 2, P 23; OPC BR 15) However, OPC contended that an amount of \$430,828 was approved in the Order of the last rate case; therefore, the 13-month average should not exceed the Commission's previous allowed expense. (TR 585-586; OPC BR 15-16) OPC noted that it is Commission practice to include one-half of the previously approved amount of rate case expense in working capital. (TR 803-804; OPC BR 16) OPC further noted that according to Section 367.081(9), F.S., 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." As such, the total Utility adjusted balance of \$385,087 should be removed from working capital. (OPC BR 16)

OPC further indicated that the working capital balance of \$43,206 for unamortized debt discount & expense is also included on Schedule D-6 of the MFRs. (EXH 99, BSP 224; OPC BR 16) OPC claimed that it was inappropriate to include this amount in two places as it would allow for double recovery. (OPC BR 16)

In regards to Hurricane expenses, OPC contended the use of a four-year amortization period is unsupported by KWRU. (TR 777; OPC BR 17) OPC asserted a five-year amortization period, pursuant to Rule 25-30.433(8), F.A.C., should be used. (OPC BR 17)

OPC concluded in its brief, based on adjustments discussed above, working capital allowance should be reduced from \$2,219,132 to \$684,336. (OPC BR 17) However, in its brief, OPC contends working capital allowance should be \$935,853. (OPC BR 13) Staff is unable to reconcile this difference.

---

<sup>10</sup> Order No. PSC-2017-0091-FOF-SU, p. 32.

Date: July 26, 2018

### **Monroe County**

In its brief, the County stated that the proper amount of working capital is \$935,853. (County BR 17-18) The County contended KWRU's requested working capital is excessive. (TR 583-586; County BR 18) The County noted operating revenues are approximately \$177,000 per month, and average monthly expenditures are \$133,510. (TR 1000-1001; County BR 18) As such, the County claimed that the Utility has sufficient funds to finance its operating needs. (County BR 18)

### **ANALYSIS**

Rule 25-30.433(2), F.A.C., requires that Class A utilities use the balance sheet method to calculate the working capital allowance. Based on the balance sheet method, working capital is calculated as current assets less current liabilities. In its original filing, KWRU presented a working capital balance of \$2,219,132. (EXH 2, P 4) Subsequently, Utility witness Swain updated this amount to \$2,269,090 on her revised Schedule A-2. (EXH 54, P 2) Staff believes multiple adjustments are necessary to the components of working capital, including cash, special deposits, unamortized debt discount and expense, deferred rate case expense, and other miscellaneous deferred debits as discussed below.

#### **Cash**

KWRU included a 13-month average cash balance of \$911,826 in working capital. (EXH 2, P 22) OPC witness Schultz testified this was an excessive amount which surpassed the cash balance approved in the previous rate case by \$593,848. (TR 583) Witness Schultz also cited to the decision made by the Commission in that case to reduce cash requested in working capital from \$877,289 to \$317,978.<sup>11</sup> (TR 584) Witness Schultz asserted KWRU should find alternate uses for cash not needed to operate the Utility on a daily basis, such as investment in an interest bearing account, paying off debt, or another alternate use for the excess cash. (TR 584)

During the technical hearing, KWRU witness Swain identified an account with a 13-month average balance of \$101,933 included in working capital cash titled "BB&T Operating Account" and explained this is the primary checking account utilized for day-to-day operations. (TR 853-854; EXH 133, P 1) Witness Swain also identified an account with a 13-month average balance of \$627,253 included in working capital cash titled "BB&T Capital Account" and stated that this account is primarily used for capital expenditures. (TR 857; EXH 133, P 1)

KWRU witness Swain testified the requested cash balance of \$911,826 is the appropriate amount needed to meet its financial obligations. (TR 765) To demonstrate the Utility's need for its requested cash, witness Swain detailed two occasions in which the Utility relied on a loan transfer of \$681,780 and capital contributions of \$530,000 to cover the costs of construction. (TR 764) OPC acknowledged that the general ledgers do show multiple loans and equity contributions. (OPC BR 14) However, it also stated these infusions appear to be associated with capital projects and not normal day-to-day operations. (EXH 93, BSP 154; OPC BR 14) OPC asserted that working capital should be a measurement of cash required to fund day-to-day operations, and not funds needed for capital projects. (OPC BR 14) OPC continued that, in the

---

<sup>11</sup> *Id.*



Date: July 26, 2018

past, the Commission has determined plant assets should not be funded by working capital.<sup>12</sup> (OPC BR 14)

Staff agrees that working capital allowance should reflect day-to-day operations. Staff also agrees expenditures for capital projects do not exemplify day-to-day operations. As such, staff believes the BB&T Capital Account should be removed from the working capital cash balance.

In response to an interrogatory, the Utility also identified an account with a 13-month average balance of \$175,541 included in working capital cash titled "BB&T Customer Escrow Account" and stated this was a holding account for customer deposits. (EXH 89, BSP 103) OPC witness Schultz asserted this was an interest bearing escrow account; therefore, it should not be included in working capital. (TR 585) Staff notes interest cannot be fully recognized for this account above the line as customer deposits are continually added and refunded from the account. Based on Commission decisions in the past regarding interest bearing accounts, staff agrees with witness Schultz that the BB&T Customer Escrow Account should be removed from the working capital cash balance.<sup>13</sup>

Based on the discussion above, staff calculated a reduction to working capital cash of \$802,794 (\$627,253 + \$175,541), resulting in a balance of \$109,032. However, staff reviewed the test year general ledger and recognizes the BB&T Capital Account was utilized for day-to-day operations on a minimal basis. (EXH 93, BSP 154) Staff also notes if KWRU did not use the Capital Account in situations where the Utility suffered from shortfalls, the BB&T Operating Account would have been maintained at a higher amount to recognize variation in cash expenditures month-to-month. Witness Schultz testified it was appropriate to hold the balance of cash to the amount approved in the previous rate case, as this decision was reached a year ago by the Commission. (TR 584) Staff agrees with OPC that KWRU has not provided support for its claim that \$911,826 is the proper cash balance needed for day-to-day operations. As such, staff recommends total cash included in working capital be held at \$317,978, as suggested by OPC witness Schultz and decided by the Commission in the last rate case a year ago.<sup>14</sup> (TR 583) Staff notes a cash balance of \$317,978 would encompass the post-test year transfer of FPSC escrow funds, as discussed below. This reflects a decrease of \$593,848 to working capital.

### **Special Deposits (FPSC Escrow Account)**

The Utility included a 13-month average balance of \$281,123 in working capital for special deposits. (EXH 2, P 22) In response to an interrogatory, KWRU specified this account was the FPSC Escrow Account established in the last rate case following the protest of the PAA Order to collect revenues during the Hearing process.<sup>15</sup> (EXH 89, BSP 103) The Utility also noted a refund was completed in August 2017, and the money in the FPSC escrow account was

---

<sup>12</sup> Order No. PSC-97-0847-FOF-WS, issued July 15, 1997, in Docket No. 960234-WS, *In re: Investigation of rates of Gulf Utility Company in Lee County for possible overearnings*. Docket No. 960329-WS, *In re: Application for increase in rates and service availability charges in Lee County by Gulf Utility Company*.

<sup>13</sup> Order No. PSC-97-1225-FOF-WU, issued October 10, 1997, in Docket No. 970164-WU, *In re: Application for increase in rates in Martin County by Hobe Sound Water Company*; Order No. PSC-96-1404-FOF-GU, issued November 20, 1996, in Docket No. 960502-GU, *In re: Application for rate increase by City Gas Company of Florida*.

<sup>14</sup> Order No. PSC-2017-0091-FOF-SU, p. 31.

<sup>15</sup> Document No. 03435-16

Date: July 26, 2018

transferred to the operating account. (EXH 92, BSP 146-147) Ratemaking is prospective in nature, and it is Commission practice to recognize known and measureable changes.<sup>16</sup> As such, staff believes as this account has been closed, and the funds transferred to another account, it is a known and measurable adjustment to the test year to remove this account. Therefore, staff recommends \$281,123 be removed from working capital allowance.

### **Unamortized Debt Discount and Expense**

KWRU included a 13-month average balance of \$43,206 in working capital allowance for unamortized debt discount and expense. The Utility indicated the unamortized debt cost is included in the capital structure as set forth on Schedule D-6 of the MFRs. (EXH 2, P 45; EXH 99, BSP 224) Staff notes Schedule A-17 of the MFRs explains “The calculation should not include accounts that are reported in other rate base or cost of capital accounts.” (EXH 2, P 22) Staff agrees with OPC that it would be inappropriate to include this amount in two places. (OPC BR 16) As such, staff recommends \$43,206 be removed from working capital allowance.

### **Deferred Rate Case Expense**

KWRU included a 13-month average balance of \$385,087 in working capital allowance for deferred rate case expense. (EXH 2, P 22) This included an adjustment to reduce deferred rate case expense by \$53,854 to recognize six months of amortization. (EXH 2, P 6) As noted by OPC, Section 367.0816, F.S., was repealed and replaced by Section 367.081(9), F.S., which 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” (OPC BR 16) OPC noted the instant docket falls under the new statute; therefore, it claimed all deferred rate case expense should be removed. (OPC BR 16) Staff notes prior to implementation of the new statute, it was Commission practice to include one-half of the approved amount of rate case expense in working capital under the balance sheet method.<sup>17</sup> Staff agrees that one-half of the recommended amount of rate case expense in the instant docket should not be included in working capital pursuant to the updated Statute. However, as the previous Statute was in effect when the Commission issued an Order in the previous docket a year ago, the amount of \$215,414 should be included in working capital to recognize one-half of previous rate case expense. Therefore, staff recommends that the \$169,673 associated with deferred rate case expense in the current case be removed from working capital allowance.

### **Other Miscellaneous Deferred Debits**

#### ***Last Stand***

The Utility included a balance of \$496,973 in working capital allowance for other miscellaneous deferred debits. (EXH 2, BSP 22) This represented the full balance of Last Stand litigation fees approved to be amortized over a five-year period in the previous rate case. KWRU made a reduction of \$49,697 to amortize six months of the deferred debit. (EXH 2, P 6) Staff believes an adjustment should be made to recognize an additional six months of amortization, as a full year has passed since the Commission issued the Order in the previous rate case. As such, staff recommends an additional reduction of \$49,697 be made yielding a total deferred Last Stand expense of \$397,579.

---

<sup>16</sup> Order No. PSC-2017-0091-FOF-SU, p. 12.

<sup>17</sup> *Id.*

### ***Hurricane Expense***

In its original filing, KWRU included an adjustment of \$189,063 to recognize the unamortized portion of requested hurricane expense. (EXH 2, P 6) As will be discussed in Issue 26, staff is recommending the unamortized portion of hurricane expenses should be \$187,983. As such, staff recommends a decrease of \$1,080 to the originally filed request.

### ***Other Expenses***

As will be discussed in Issues 19 and 22, staff recommends the costs associated with the DEP permit renewal, the defaulted employee loan, and the profit sharing plan setup costs be amortized over five years. As such, staff recommends working capital be increased by \$15,441 to recognize the unamortized portion of the DEP permit renewal, employee loan, and pension plan setup costs.

To recognize the above adjustments to other miscellaneous deferred debits, staff recommends that \$35,336 ( $-\$49,697 + \$1,080 + \$15,441$ ) be removed from working capital allowance.

## **CONCLUSION**

Based on the discussion above, staff recommends working capital allowance should be reduced by \$1,123,186 ( $\$593,848 + \$281,123 + \$43,206 + \$169,673 + \$35,336$ ). As such, the appropriate working capital allowance is \$1,095,946.

Date: July 26, 2018

**Issue 10:** What is the appropriate rate base? (fall out)

**Recommendation:** Consistent with other recommended adjustments, the appropriate rate base is \$6,080,883. (D. Andrews)

***Position of the Parties***

**KWRU:** \$7,274,266.

**OPC:** This is a fall-out issue. Based on the amounts included in the prior issues, the appropriate amount of rate base to be used in setting rates should be \$4,880,082.

**Monroe County:** The proper amount of Rate Base is \$4,880,082.

***Staff Analysis:***

This is a fall out issue. Applying the Used and Useful percentages established in Issue 8, staff calculated adjustments to increase rate base by \$155,998. Based on staff's recommended adjustments, the appropriate rate base to be used in setting rates is \$6,080,883. The schedule for rate base is attached as Schedule No. 1-A, and the adjustments to rate base are shown on Schedule No. 1-B.

**Issue 11:** What is the appropriate capital structure?

**Approved Stipulation:** The appropriate capital structure consists of 49.43 percent common equity and 50.57 percent long-term debt based on investor sources before reconciliation to rate base.

**Issue 12:** What is the appropriate return on equity?

**Approved Stipulation:** The appropriate return on equity is 10.39 percent based on the current leverage formula.

**Issue 13:** What is the appropriate cost of long-term debt?

**Recommendation:** The appropriate cost of long-term debt is 5.39 percent. (Hightower)

**Position of the Parties**

**KWRU:** 5.39%, based on the current prime rate.

**OPC:** The appropriate cost of long-term debt is 4.88%.

**Monroe County:** The appropriate cost rate for long-term debt is 4.88 percent.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU argued the BB&T promissory notes 007 and 009, admitted into evidence as Exhibit 94, include interest at a rate of the prime rate plus 0.50 percent. (KWRU BR 13) Staff notes that Exhibit 94, BSPs 9980-9987, the BB&T promissory notes 007 and 009, are identical to Exhibits 151-152. (EXH 151 and EXH 152) In rebuttal testimony, KWRU witness Swain testified that the prime rate plus 0.50 percent is 5.25 percent currently, which when adding amortization of debt costs, totals 5.39 percent. (KWRU BR 13) This represents an increase of 0.50 percent after the filing of pre-filed direct testimony. (KWRU BR 13) KWRU argued that OPC witness Schultz testified that the interest rate should not be updated after the direct testimony. (KWRU BR 13) KWRU opined that witness Schultz did not testify that the rate is incorrect; just that the interest rate cannot be updated after the initial MFRs. (KWRU BR 13) KWRU argued that it is Commission policy to update costs throughout a rate case based on known and measurable information. (TR 819-821)

**OPC**

OPC argued that in KWRU's originally filed MFRs, the Utility indicated its cost of long-term debt was 4.88 percent. (EXH 2, P 40; OPC BR 17) OPC further argued that, in rebuttal testimony, KWRU witness Swain testified the prime rate increased to 4.75 percent on March 22, 2018, and requested a higher revenue requirement to reflect a revised overall rate of return of 7.70 percent. (TR 792-93; OPC BR 18) OPC argued that the only evidence provided in witness Swain's testimony was a screen shot from the Wall Street Journal webpage showing the prime rate is 4.75 percent. OPC argued the document is insufficient to prove that KWRU's originally requested rate should be increased. (EXH 58) OPC also argued Exhibits 151 and 152 are incomplete loan agreements as there are no bank signatures indicating they were ever executed. (OPC BR 18) In addition, OPC argued KWRU did not provide any evidence of monthly bank notices or documentation or communications from its lenders that demonstrate the interest and principal amounts due for each loan or that KWRU's loan payments had increased. (OPC BR 18) OPC opined that the Utility has failed to meet its burden to show its actual interest expense has increased and therefore, the cost of capital should continue to reflect a 4.88 percent cost rate for long-term debt. (OPC BR 18)

Date: July 26, 2018

### **Monroe County**

The County agreed with OPC's arguments regarding the evidence related to KWRU's cost of long-term debt and argued that the appropriate cost of long-term debt is 4.88 percent rate. (County BR 19)

### **ANALYSIS**

In its initial MFR Schedule D-6, KWRU requested a cost rate for long-term debt of 4.88 percent (EXH 2). Neither OPC nor the County objected to the 4.88 percent cost rate for long-term debt. (OPC BR 17; County BR 18). In subsequent filings, the Utility revised its Schedule D-6, thereby increasing its cost of long-term debt to 5.39 percent. (EXH 54) The increase in the Utility's cost of long-term debt is due to a known and measurable change in the U.S. prime interest rate. (EXH 58) The U.S. prime interest rate increased from 4.50 percent, by 25 basis points to 4.75 percent, as published by the Wall Street Journal (WSJ) on March 22 2018. (TR 792-793; EXH 58) The U.S. prime rate is used to determine the variable rate of the Utility's BB&T loan instrument document. The variable rate listed in the loan agreement is the prime rate (4.75 percent) plus 50 basis points. (EXH 94, BSP 9980-9987)

As evidence the U.S. prime rate increased, KWRU submitted into the record a printed screen shot of the WSJ page denoting the U.S. prime rate. (EXH 58) OPC witness Schultz testified that a printed screenshot of the WSJ webpage is not adequate documentation to justify changing the cost debt rate. (TR 1077) While witness Schultz testified that he has no reason to disagree that the interest rate on the loan agreements is the prime rate plus 0.50 percent, witness Shultz also testified that the increase in the interest rate is outside of the test year and proforma adjustments and should not be considered. (TR 1098) Staff does not believe witness Schultz's testimony was persuasive. The printed screenshot of the WSJ webpage displayed the U.S. prime rate as of March 22, 2018, which included the proper URL, date of publication, date of printing and the trademarked "The Wall Street Journal" character mark. (EXH 58) Staff agrees with KWRU that it is Commission practice to update costs throughout rate case proceedings for known and measurable changes. (KWRU BR 13) Further, County witness Deason testified during cross examination that he agreed that to better match the cost that exists with the revenues during the time that rates are to be in effect, if the interest rate change is going to take place, then matching of costs and revenues should take place. (TR 426-427) Staff notes that the Commission recognizes the WSJ as a reliable and accurate source for financial information purposes. For example, Rule 25-30.360 F.A.C., requires that the WSJ shall be used to determine the commercial paper rate when calculating the interest rate for refund calculations.

At the hearing, KWRU questioned OPC witness Schultz about the terms of the Utility's loan agreements and provided hearing Exhibits 151 and 152, which purport to be the complete loan agreement. (OPC BR 18) Witness Shultz testified during cross examination that he had no reason to disagree that the interest rate on the loan documents is prime rate plus 0.50 percent. (TR 1098) OPC argued that the loan agreements are not sufficient and incomplete because of "no bank signature" on either promissory note. (OPC BR 18) The record and evidence demonstrates that KWRU signed Promissory Notes 007 and 009 and is liable for the corresponding loan payments to BB&T. (EXH 151-152) The Promissory Notes held by BB&T have been executed by the maker, KWRU, by its authorized representatives, William L. Smith on Promissory Note 007 and



Date: July 26, 2018

Christopher Johnson on Promissory Note 009. Staff reviewed Promissory Notes 007 and 009 and determined there is no space that requires signature by the lender, BB&T. Prior to the increase in the U.S. prime rate on March 22, 2018, neither OPC nor any intervener took issue with the validity of Promissory Notes 007 and 009 or the variable interest rate methodology used in the two loan agreements interest rates.

### **CONCLUSION**

Neither OPC witness Schultz nor any other intervener took issue with the use of the U.S. prime rate as a variable of the Utility's cost of long-term debt prior to the recorded change in the U.S. prime rate and revision of MFR schedule D-6. Staff believes the known and measurable changes regarding prime rate in the record are reasonable and adequately substantiated. The cost rate is prospective in nature and staff believes this is appropriate based on the preponderance of information and evidence in the record. Therefore, staff recommends the appropriate cost rate of long-term debt is 5.39 percent.

**Issue 14:** What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure?

**Recommendation:** Based on the proper components, amounts and cost rates associated with the capital structure for the test year ended June 30, 2017, the appropriate weighted average cost of capital for purposes of setting rates in this proceeding is 7.67 percent. (Hightower)

**Position of the Parties**

**KWRU:** 7.70 percent.

**OPC:** This is a fall-out issue based on the previous issues and the reconciliation of capital structure to rate base. The appropriate weighted average cost of capital is 7.37 percent.

**Monroe County:** The appropriate weighted average cost of capital is 7.37 percent.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its initial filed MFRs, KWRU requested a weighted average cost of capital (WACC) of 7.45 percent. (EXH 2) In its brief, KWRU argued that based on witness Swain's testimony as to the current leverage formula and the current prime rate, the correct weighted average cost of capital is 7.70 percent. (KWRU BR 14; TR 792-793)

**OPC**

OPC argued that this is a fall-out issue based on the previous issues and the reconciliation of capital structure to rate base. (OPC BR 18) The appropriate weighted average cost of capital is 7.37 percent. (OPC BR 18)

**Monroe County**

The County argued that this is a fall out issue. The County agreed with the other parties on the capital structure and cost of equity pursuant to the leverage formula, and agrees with OPC's analysis and conclusions regarding the cost of long-term debt, resulting in the weighted average cost of capital of 7.37 percent. (County BR 19)

**ANALYSIS**

In its initial filed MFRs, KWRU requested a WACC of 7.45 percent. (EXH 2) In the Utility's revised MFRs and the Utility's brief, KWRU proposed a weighted average cost of capital of 7.70 percent. (EXH 54; KWRU BR 14) The increase of 25 basis points in KWRU's proposed weighted average cost of capital was due to an increase in the Utility's long-term debt cost rate addressed in Issue 13. The lower weighted average cost of capital in the OPC's brief was based on a lower long-term debt cost rate (4.88 percent), which was also addressed in Issue 13. (OPC BR 18) The proposed KWRU WACC is slightly higher than staff's recommended WACC of 7.67 percent

Date: July 26, 2018

due to staff's smaller recommended rate base, which when reconciled to the capital structure, yields a lower WACC amount.

KWRU included \$201,041 in its proposed capital structure for customer deposits and applied a cost rate of 2.00 percent consistent with Rule 25-30.311, F.A.C., Customer Deposits. Neither OPC nor the County objected to the amount of or cost rate for customer deposits in KWRU's proposed capital structure. The weighted average cost of capital and capital structure is presented below in Table 14-1.

**Table 14-1**  
**Staff's Recommended Weighted Average Cost of Capital**

<b>Cost Component</b>	<b>Total Capital</b>	<b>Prorata Adjustment</b>	<b>Capital Reconciled to Rate Base</b>	<b>Ratio</b>	<b>Cost Rate</b>	<b>Weighted Average Cost of Capital</b>
Long-term Debt	\$2,209,292	\$764,089	\$2,973,381	48.90%	5.39%	2.64%
Common Equity	2,159,569	746,893	2,906,462	47.80%	10.39%	4.97%
Customer Deposits	<u>201,041</u>	<u>0</u>	<u>201,041</u>	<u>3.31%</u>	2.00%	<u>0.07%</u>
Total Capital	<u>\$4,569,902</u>	<u>\$1,510,982</u>	<u>\$6,080,884</u>	<u>100.00%</u>		<u>7.67%</u>

Source: Staff Schedule 2

The weighted average cost of capital is a fall out issue that combines the cost rate and amount of the capital components into a final overall rate of return. As discussed in prior issues, the cost rate of common equity of 10.39 percent was stipulated based on the leverage formula in effect at the time the record closed, and staff recommends a cost rate of 5.39 percent for long-term debt as discussed in Issue 13.

## CONCLUSION

Based on the proper components, amounts and cost rates associated with the capital structure for the test year ended June 30, 2017, the appropriate weighted average cost of capital for purposes of setting rates in this proceeding is 7.67 percent.

**Issue 15:** What are the appropriate billing determinants (factored ERCs and gallons) to use to establish test year revenues?

**Recommendation:** The appropriate billing determinants to use to establish test year revenues are 30,128 factored ERCs, 217,179,000 gallons for wastewater service, and 40,608,000 gallons for reuse service. (Friedrich, Knoblauch, Sowards)

***Position of the Parties***

**KWRU:**

Residential

Bills	17,475
Gallons	65,498

General Service

Bills	1,981
Gallons	106,976

Harbor Shores

Bills	12
Gallons	2,436

Private Lift Stations

Bills	2,269
Gallons	42,269

Reuse Service

Bills	16
Gallons	27,074

**OPC:** The appropriate test year billing determinants (factored ERCs and gallons) to use to establish test year revenues are those included on Schedule E-2 of the MFRs which should be updated consistent with the matching principle for the 12-month period when rates are in effect.

**Monroe County:** The appropriate number of Bills for wastewater service is 22,601 Bills and the appropriate number of Gallons is 226,439,000. The appropriate number of Reuse Service gallons is at least 37,252,666 gallons, rounded to 37,253,000 gallons.

***Staff Analysis:***

**PARTIES' ARGUMENTS**

**KWRU**

KWRU contends that the appropriate billing determinants for test year revenues are reflected in KWRU's MFRs. (KWRU BR 14) KWRU argued against the County's position to include additional billing determinants to calculate test year revenues. Further, the Utility asserted the testimonies of County witnesses Wilson and Small were incorrect with respect to additional

Date: July 26, 2018

meters being added for certain customers because some of those customers are already online and served by the Utility. (KWRU BR 14-15) KWRU argued that witness Wilson's testimony with respect to projected flows are not known and measurable because his projections were based on personal estimations and not fact. Therefore, witness Wilson's projections are inappropriate for consideration in a historical test year with pro forma adjustments. (KWRU BR 15)

Additionally, the Utility stated it was inappropriate for witness Wilson to provide projected flows for Sunset Marina based on the assumption that every unit would be occupied immediately and be utilizing maximum flows because the witness was unsure if the units would be rentals or sales. (KWRU BR 15) In addition, KWRU argued that witness Wilson's projected flows are overstated because he utilized gallonage data during tourist season which could also overstate KWRU's flows. Further, witness Johnson testified that Rule 64E-6.008, F.A.C., of the Department of Health, contemplates an estimate of the maximum flows, not average daily flows. KWRU argued that if daily flows were projected utilizing maximum flows instead of average flows, it would grossly overstate gallonage. (KWRU BR 15)

KWRU noted two recent rate cases in which the Commission utilized a historic test year with pro forma adjustments, but did not adjust billing determinants for future growth. (KWRU BR 15; TR 413) KWRU further argued that witness Deason's testimony regarding the matching principle failed to consider recent Commission decisions that have been based on historic test years with pro forma adjustments. Additionally, KWRU pointed out that witness Deason's testimony was theoretical and did not reflect the specific facts of this proceeding. Further, the Utility disagreed with witness Deason's position that CIAC can be imputed because there is a clear statutory prohibition. (KWRU BR 16)

### **OPC**

In its brief, OPC stated the appropriate billing determinants to use to establish test year revenues are those set forth within the E-2 Schedule of KWRU's MFRs updated to be consistent with the matching principle. (OPC BR 18) OPC agrees with the County that billing determinants should be increased by 1,386 ERCs and 9.26 million gallons. (OPC BR 41)

### **Monroe County**

The County asserted the appropriate billing determinants to establish test year revenues are 22,601 bills, 226,439,000 gallons, and at least 37,253,000 reuse gallons. (County BR 20) The County argued that in order to ensure that rates are fair, just, and reasonable, the Commission must follow the matching principle. The County described the matching principle as matching the incurred costs of the Utility to sales of wastewater service during the time that rates will be in effect. (County BR 20) Therefore, the County disagreed with the Utility's request to include pro forma adjustments without the inclusion of projected sales during the same time period. (County BR 20)

On behalf of the County, witness Wilson testified to include an additional 9.26 million gallons per year in the Utility's billing determinants. As a result, this would increase KWRU's total gallons for the time period rates will be in effect by 4.26 percent. (County BR 21) The County defended the conservative nature of witness Wilson's estimated growth by comparing it to KWRU's estimated growth in its 2016 annual report of seven percent and KWRU's projected

Date: July 26, 2018

growth used for calculating U&U percentages of five percent per year. (County BR 21) The County also asserted that at least 37,253,000 reuse gallons should be in KWRU's billing determinants based on the average reuse sales for 2015 through 2017 and a new customer, Bernstein Park, which will be receiving reuse service. (County BR 21-23)

### ANALYSIS

In its MFRs, KWRU provided historical billing determinants for test year revenues adjusted to reflect known and measurable changes. The Utility's adjustments include a reduction to the usage of Stock Island Apartments (18 million gallons), reclassification of Harbor Shores as a General Service customer, and additional gallons attributable to incorrect FKAA billings (10.8 million gallons). (EXH 2 P 48) There was no testimony refuting these adjustments. Witness Swain testified that the E-2 Schedule of the MFRs serves two purposes: (1) to prove the billing determinants generate both the revenues that are on the Utility's books and (2) to demonstrate the effects on revenues of annualizing KWRU's current rates at the time of filing had they been in effect through the duration of the test year. (TR 55-56)

Both KWRU and the County provided testimony regarding the matching principle. Witness Deason testified to the test year selection considerations and outlined the premise for historic and projected test years. Staff agrees with witness Deason's statement that it is important for the test year to be representative of the period in which rates will be in effect and that key variables, such as investment, expenses, and billing determinants are all representative of the same time period in setting rates. (TR 396) Additionally, witness Deason recognized Order Nos. 15725 and PSC-01-2511-PAA-WS in which the Commission utilized projected test years. (TR 399-401) Of the two orders witness Deason discussed, Order No. PSC-01-2511-PAA-WS, a staff-assisted rate case for Burkim Enterprises, Inc. (Burkim), demonstrated growth at an exceptionally high rate. In Burkim's rate case, billing determinants were projected to increase by approximately 16 percent for water and 13 percent for wastewater. Additionally, the Commission adjusted expenses based on the percent increase in gallons in the projected test year. Comparatively, the County proposed to increase KWRU's gallons by approximately 4.26 percent. (County BR 20) Witness Deason also identified Order No. 15725, rate case for Martin Downs Utilities, Inc.; however, based on the Order, staff was unable to quantify the anticipated rapid growth that led to the Commission using a projected test year for this case. Additionally, staff agrees with witness Swain's distinction between the Burkim rate case brought forth by witness Deason from the current rate case because there was continued, extraordinary high growth in that case. While KWRU continues to experience growth, the growth does not appear to be extraordinary. (TR 789; TR 791)

At the hearing, witness Swain agreed that during KWRU's last rate case, Docket No. 20150071-SU, additional billing determinants were added to test year revenues to set final rates because the pro forma projects included in rate base were growth related.<sup>18</sup> (TR 864) Staff agrees with witnesses Johnson and Swain that the pro forma projects the Utility requested in this proceeding, the office building, generator, and phone systems, are not associated with growth. (TR 1042; TR 790) Additionally, in Docket No. 20160101-WS, a recent Utilities, Inc. of Florida rate case, the

---

<sup>18</sup>Order No. PSC-17-0091-FOF-SU, issued March 13, 2017, in Docket No. 20150071-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.*

Date: July 26, 2018

test year was based on historical billing determinants. Although pro forma projects were included in rate base, those projects were not growth related and projected billing determinants were not used to set final rates.<sup>19</sup>

County witness Wilson testified to the appropriate amount of additional bills and gallons that should be imputed in billing determinants and witness Small further testified to the possible effects of including additional billing determinants. (TR 525-533; TR 455-486) While these witnesses provided analysis pertaining to the revenues and sales components, their testimony did not quantify associated projected expenses, nor were they quantified at the hearing. However in its brief, the County quantified projected expenses by increasing sludge removal, chemicals, and purchased power expenses by the same 4.26 percent factor applied to projected billing determinants. (County BR 25-26) Witness Swain testified that in order to quantify the matching costs, an in-depth analysis of each expenditure with consideration to a variety of factors, would need to be conducted. (TR 859-860) Staff agrees with witness Swain that an analysis of each expenditure should be considered when quantifying matching costs. Staff does not believe that the County's position was sufficiently developed to quantify all expenses that would be impacted assuming the growth factor considered by the County.

All parties agreed as to the basic concept of the matching principle; however, they disagreed as to how it should be applied in this case. Staff agrees with the Utility's position on the matching principle and believes that the anticipated growth is not extraordinary. Staff believes a historic test year, which includes non-growth related pro forma investment out two years, pursuant to Section 367.081, F.S., but no adjustments for projected expenses or billing determinants, best represents the conditions when rates will be in effect in 2018. Based on the above, staff agrees with KWRU that the annualized billing determinants set forth in the Utility's MFRs are appropriate to establish test year revenues and are reflected in Table 15-1. (EXH 2, P 48)

**Table 15-1**  
**Test Year Billing Determinants**

<b>Customer Class</b>	<b>Factored ERCs</b>	<b>Gallons (000's)</b>
Residential Service	17,475	65,498
General Service	6,050	106,976
Private Lift Station	5,775	42,269
Harbor Shores	828	2,436
<b>Total</b>	<b>30,128</b>	<b>217,179</b>

The total reuse gallons within the Utility's MFRs of 27,074,000 only account for eight months of usage out of the total 12-month test year because the Utility's plant expansion project occurred during the last four months of the test year (March 2017 through June 2017) and temporarily prevented KWRU from providing reuse service. (EXH 87, BSP 50-51) Staff disagrees with the County's argument that KWRU is requesting lower reuse gallons because the reuse gallons

<sup>19</sup>Order No 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, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.*

Date: July 26, 2018

within KWRU's MFRs represented only 8 months of the entire test year. (County BR 22) Staff recommends annualizing the actual reuse gallons sold during the eight months of the test year in order to most accurately depict reuse sales for the entire test year instead of an average based on past annual reports and the MFRs, which the County recommended. Therefore, the appropriate amount of reuse gallons to include in billing determinants is 40,608,000 gallons  $((27,074,000 \text{ gallons} / 8 \text{ months}) \times 12 \text{ months})$ .

### **CONCLUSION**

The appropriate billing determinants to use to establish test year revenues are 30,128 factored ERCs, 217,179,000 gallons for wastewater service, and 40,608,000 gallons for reuse service.



**Issue 16:** What are the appropriate test year revenues?

**Recommendation:** Staff recommends the appropriate test year revenues are \$2,359,611. (Friedrich)

**Position of the Parties**

**KWRU:** \$2,332,526.

**OPC:** This is a fall-out issue. Based on the amounts included in other issues, test year revenues should be \$2,513,596.

**Monroe County:** Consistent with KWRU's asserted "historic" test year billing determinants, test year revenues are \$2,353,316. Consistent with the billing determinants that are likely to be realized in the first year that new rates are effective, the adjusted revenues are \$2,513,596.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU argued that the appropriate test year revenues are \$2,332,526. The Utility refuted Audit Finding 3 containing adjustments to revenues; witness Swain argued that the finding of \$20,789 should not be added to test year revenues. Additionally, as discussed in Issue 15, KWRU disagreed with the County's projected billing determinants. (KWRU BR 17)

**OPC**

This is a fall-out issue. Based on the amounts included in other issues, test year revenues should be \$2,513,596. (OPC BR 18-19)

**Monroe County**

The County stated that KWRU's historic test year revenues are \$2,353,316. Additionally, the County argued the appropriate revenues to account for the first year that new rates will be in effect are \$2,513,596 which includes additional revenues attributable to projected billing determinants as discussed in Issue 15. (County BR 23)

**ANALYSIS**

As discussed in Issue 15, staff agrees with the Utility's billing determinants as set forth in its MFRs with the inclusion of additional reuse gallons to account for the last four months of the test year in which the Utility could not provide reuse service due to plant expansion. As a result, the appropriate service revenues are \$2,226,496. Further, staff agrees with the Utility's proposed miscellaneous revenues within its MFRs. Therefore, the appropriate miscellaneous revenues are \$113,115. The appropriate test year revenues are shown in Table 16-1.

Staff agrees with witness Swain's rebuttal testimony that Audit Finding 3, which recommends an increase of \$20,789 to test year revenues, should not be applied. (TR 764) Witness Swain testified that the adjustment of \$9,623 reflected revenues that KWRU incurred in the prior

Date: July 26, 2018

period, but inadvertently omitted from the RAF report as of June 30, 2016. Therefore, this amount should not be an adjustment to test year revenues since it occurred prior to the test year. (TR 764) Further, staff agrees with witness Swain that the remaining adjustment relating to service revenues should not be made because it appears the audit did not consider applicable adjustments or credits to customer bills when calculating service revenues. (TR 764)

**Table 16-1  
Test Year Revenues**

<b>TY Service Revenues</b>			
<b>Customer Class</b>	<b>Factored ERCs</b>	<b>Gallons (000's)</b>	<b>Total TY Revenues</b>
Residential Service	17,475	65,498	\$902,583
General Service	6,050	106,976	\$869,911
Private Lift Station	5,775	42,269	\$414,760
Harbor Shores	828	2,436	\$39,242
Total Test Year Service Revenues	30,128	217,179	\$2,226,496
<b>TY Miscellaneous Revenues</b>			
Reuse Service	-	40,608	\$54,415
Miscellaneous Revenues			\$78,700
Total Test Year Miscellaneous Revenues			\$133,115
<b>Total Test Year Revenues</b>			<b>\$2,359,611</b>

Source: EXH 2, P 48

### CONCLUSION

Staff recommends the appropriate test year revenues are \$2,359,611.

Date: July 26, 2018

**Issue 17:** What adjustments, if any, should be made to account for the audit findings related to net operating income?

**Recommendation:** Operation and Maintenance (O&M) expense should be adjusted to account for Audit Finding 4, as reflected in Issues 20, 21, and 27. (Johnson)

***Position of the Parties***

**KWRU:** None.

**OPC:** Test year revenues should be increased by \$10,807, Sludge Removal Expense should be increased by \$23,523, Purchased Power should be decreased by \$11,521, Materials and Supplies should be decreased by \$11,780, Miscellaneous Expense should be reduced by \$2,100, and Hurricane Irma expense should be reduced by \$305.

**Monroe County:** To comport with the audit findings, test year revenues should be increased by \$10,807, Sludge Removal Expense should be increased by \$23,523, Purchased Power should be decreased by \$11,521, Materials & Supplies expense should be decreased by \$11,780, and Miscellaneous Expense should be reduced by \$2,100, plus \$305.

***Staff Analysis:***

**PARTIES' ARGUMENTS**

**KWRU**

KWRU asserted that no adjustments are necessary because an audit finding was removed by Commission Staff witness Glover. (KWRU BR 18)

**OPC**

In its brief, OPC detailed its recommendations on Audit Findings 3, 4 and 5, as follows:

***Audit Finding 3***

Audit Finding 3 addressed adjustments to test year revenues. (OPC BR 19) OPC argued test year revenues should be increased by \$10,807 for service revenues. (OPC BR 19) Although KWRU witness Swain refuted this adjustment, the Utility did not provide documentation in support of its argument. (OPC BR 19-20) Therefore, OPC believes this adjustment should be made in addition to an increase of \$486 to taxes other than income for the related increase in RAFs. (OPC BR 19-20) OPC additionally indicated the monthly "MCDC revenues" and the 12 monthly amounts in the general ledger reconcile to the amount reflected in the MFRs Schedule E-5 in order to account for the adjustment to miscellaneous revenues contained within Audit Finding 3. (OPC BR 19-20)

***Audit Finding 4***

In its brief, OPC agreed with Audit Finding 4 which addressed adjustments to O&M expenses. (OPC BR 20) Additionally, OPC recognized that KWRU witness Swain agreed with Audit Finding 4. (TR 761) OPC stated that sludge removal expense should be increased by \$23,523, purchased power expense should be decreased by \$11,521, materials and supplies expense

Date: July 26, 2018

should be decreased by \$11,780, and miscellaneous expense should be reduced by \$2,100. (OPC BR 20) This results in a net decrease to O&M expense of \$1,878. (OPC BR 20)

### ***Audit Finding 5***

In its brief, OPC agreed with Audit Finding 5 which addressed adjustments to hurricane expenses. (OPC BR 20) Additionally, OPC recognized that witness Swain agreed with Audit Finding 5. (TR 761) OPC asserted that Hurricane Irma expense should be reduced by \$305. (OPC BR 20)

### **Monroe County**

In its brief, the County agreed with OPC that test year revenues should be increased by \$10,807, sludge removal expense should be increased by \$23,523, purchased power expense should be decreased by \$11,521, materials & supplies expense should be decreased by \$11,780, miscellaneous expense should be reduced by \$2,100, and Hurricane Irma expenses should be reduced by \$305. (County BR 24)

## **ANALYSIS**

Staff's audit report was originally filed in the docket file on February 13, 2018 and entered into the record during the technical hearing. Staff Audit Finding 3 is addressed in Issue 16. Staff Audit Finding 5 is addressed in Issue 26. Regarding staff Audit Finding 4, witness Glover testified that: (1) sludge removal expense should be increased by \$23,523; (2) purchased power expense should be decreased by \$11,521; (3) materials and supplies expense should be decreased by \$11,780; and (4) miscellaneous expense should be reduced by \$2,100. (TR 662) The net effect of these adjustments would reduce O&M expenses by \$1,878. Although KWRU argued in its brief that no adjustments should be made, KWRU witness Swain testified that she agreed with Audit Finding 4. (OPC BR 18; TR 761) Furthermore, both OPC and the County agreed with Audit Finding 4 in their briefs. (OPC BR 20; County BR 24) Therefore, staff believes O&M expense should be decreased by \$1,878 to account for Audit Finding 4, as reflected in Issues 20, 21, and 27.

## **CONCLUSION**

O&M expense should be adjusted to account for Audit Finding 4, as reflected in Issues 20, 21, and 27.

Date: July 26, 2018

**Issue 18:** What is the appropriate amount of salaries and wage expense?

**Recommendation:** The appropriate amount of salaries and wage expense is \$930,485. Accordingly, salaries and wage expense should be decreased by \$83,645. (Johnson)

**Position of the Parties**

**KWRU:** \$981,985.

**OPC:** The appropriate amount of salaries and wage expense for employees and officers is \$839,613.

**Monroe County:** The appropriate amount of salaries and wage expense is \$839,613.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU asserted that the appropriate amount of salaries and wage expense should be based on the Utility's full staff of 14 employees. (KWRU BR 18) KWRU witness Johnson testified that KWRU was fully staffed before Hurricane Irma and has been fully staffed for all of 2018. (TR 189) Four additional employees were approved in Order No. PSC-16-0123-PAA-SU, raising the Utility's staffing from 9.5 to 13.5 positions. KWRU argued that the Utility was unable to recover the full salaries of all 13.5 employees because the salaries of the four new employees were simply added to test year salaries, which included vacancies during the test year, instead of using all 13.5 positions at full salary. (KWRU BR 18) KWRU requested an additional 0.5 employees, testifying that a full 14 employees is needed to properly operate the plant and complete small capital improvements in house. (TR 151-152)

KWRU stated that salaries and wage expense should be updated to show current salary conditions. (KWRU BR 18) KWRU asserted that all known salary increases that are anticipated in the near future should be included in salaries and wage expense. (KWRU BR 18) In addition, KWRU anticipated that a new and competitive pension plan will lead to higher employee retention. (TR 905) KWRU argued that OPC witness Shultz utilized data prior to when KWRU's third treatment plant went on-line which results in costs that use less than KWRU's full compliment of employees. (KWRU BR 18) KWRU added that witness Shultz agreed that KWRU currently has 14 employees, 12 full-time staff members, and two full-time officers. (TR 639)

**OPC**

OPC argued that vacancies are a reality for all organizations and should be accounted for when budgeting salaries and wage expense. (OPC BR 21) OPC further argued that KWRU has had major vacancy issues over time. (OPC BR 21) Witness Johnson testified that KWRU has had employee retention issues and had frequent turnover on a year-over-year basis. (TR 152) In addition, KWRU experienced 11 vacancies in 2015, 10 in 2016, and 16 in 2017. (EXH 37, P 14) OPC submitted that positions were vacant for an average of 60 days and the Utility averaged 12

Date: July 26, 2018

vacancies over a three-year period. (OPC BR 21) Using the average test year salary for employees of \$59,451, OPC concluded that an employee vacancy adjustment of \$117,273 (  $\$59,451 \times 12/365 \times 60$  ) should be made to reduce salary expense. (OPC BR 21)

KWRU requested an across the board 4 percent increase to all salaries which results in a \$38,957 increase, \$10,061 for officers and \$28,536 for employees. (OPC BR 21; EXH 25) However, the Utility stated that the purpose of KWRU witness Johnson's Exhibit CAJ-23 was to "provide a theoretical projection of salaries and wages based on the November 2017 wages and staffing levels for the 2018 calendar year. The 4 percent was not based on actual raises given, nor annual raises anticipated to be given." (EXH 88, BSP 74) OPC asserted that there was no evidence provided to demonstrate that significant increases were needed across the board. (OPC BR 22) OPC further emphasized that there was no evidence provided to support the requested \$38,597 increase due to future raises. OPC concluded that only half the amount should be included and salary expense should be reduced by \$19,299. (OPC BR 22)

OPC asserted that KWRU's requested overtime expense of \$48,288 is significantly higher than the average overtime KWRU has experienced over the previous four years. (OPC BR 22) The Utility indicated its average overtime pay was \$20,947 for the years 2013-2017. (EXH 37 P 16-18) OPC further argued that KWRU failed to meet its burden of proof to support the requested \$48,288 in overtime and therefore believes overtime expenses should be reduced to the five-year average of \$20,947, for a reduction of \$27,341. (OPC BR 23) In addition, KWRU is requesting extraordinary event overtime of \$10,605, which is the five-year amortization portion of a hypothetical \$53,025 spent in overtime pay on a future extraordinary event. (OPC BR 23) KWRU witness Johnson testified that "KWRU analyzed the potential additional impact of an extraordinary event and determined that we could have reasonably needed staff to work three hours per day overtime for a period of six weeks." (TR 904) Witness Johnson described this as the time that would have been incurred preparing for a direct hit and the restoration work after the impact. (TR 904) OPC added that KWRU is seeking the recovery of actual overtime incurred related to Hurricane Irma in the amount of \$7,440. (EXH 22, P 1) OPC argued that prudent ratemaking does not include the amortization of costs for both past and future events, nor does OPC believe KWRU should collect money in advance of future storms. (OPC BR 24) OPC concluded that the \$10,605 should be removed from salaries and wage expense. (OPC BR 24)

In conclusion, OPC believes that the requested salary expense of \$1,014,130 should be reduced to \$839,613, to reflect the vacancy adjustment of \$117,273, to reduce the 4 percent raise by \$19,299, to reduce the overtime by \$27,341, and to remove the extraordinary event overtime amount of \$10,605. (OPC BR 24)

### **Monroe County**

In its brief, the County agreed with OPC that the appropriate amount of salaries and wage expense should be \$839,613. (County BR 24)

Date: July 26, 2018

## ANALYSIS

In the Utility's original MFRs, KWRU requested total salaries and wage expense of \$1,014,130, \$752,549 for employees and \$261,581 for officers. (EXH 2, P 31) This request equates to a pro forma increase of \$211,484 for employees and \$15,957 for officers. (EXH 54, P 8) The Utility's request consists of four parts: (1) the Utility at full employment with 12 employees and two officers, totaling \$124,055 and \$5,896, respectively; (2) a 4 percent raise for all employees totaling \$38,597, \$28,536 for employees and \$10,061 for officers; (3) employee overtime expense of \$48,288; and (4) overtime for a future extraordinary event of \$10,605. (TR 152; EXH 25; EXH 54, P 8)

### Annualization

In KWRU's last rate case, Docket No. 20150071-SU, the Utility began with 9.5 positions and had four additional positions approved to operate the third plant and the entire AWT system. (TR 151) KWRU witness Johnson testified that the pro forma expense for the four additional employees was not added to the 9.5 positions based on the annualized salary for the existing staff. (TR 151) Instead, the pro forma expenses were added to the employee expenses for the prior 12 months. KWRU believes this was in error because the prior 12 months had several vacancies which dramatically reduced the total salaries expense. (TR 152) This led to the Utility being unable to recover the full cost of its salaries and wages. (KWRU BR 18) KWRU is now requesting salaries and wage expense for the annualized salaries of 14 positions, 12 employees and two officers. (TR 152)

OPC witness Schultz testified that vacancies are a reality for any organization and must be factored into the budgeted salaries and wage expense. (TR 600) OPC contended that vacancies should be considered in this case because KWRU has had major issues with vacancies over time. (TR 600) In addition, witness Johnson testified that KWRU had employee retention issues and had frequent turn over on a year-to-year basis. (TR 152) However, witness Johnson further testified that KWRU can improve retention and reduce turnover by implementing a more traditional pension plan. (TR 153) As will be addressed in Issue 19, staff agrees that the new profit sharing plan could reduce turnover and improve employee retention. Furthermore, witness Johnson testified that the Utility has been fully employed with 14 positions filled during 2018. (TR 904) Therefore, staff believes it is appropriate to use the annualized salaries of the 12 employees and two officers on KWRU's staff. Annualizing the most recent salaries provided by KWRU results in pro forma salaries of \$129,610 for employees and \$7,021 for officers. (EXH 92, BSP 144) This results in an increase of \$5,555 to salary and wage-employees expense and an increase of \$1,125 to salary and wage-officers expense.

### Requested 4 Percent Increase

Additionally, KWRU requested a 4 percent increase to salary and wage expense for all of its employees to be given January 1, 2018. (EXH 25) However, the Utility later stated that "the four percent was not based on actual raises given, nor annual raises anticipated to be given." (EXH 88, BSP 74) KWRU asserted that the 4 percent raise was a projection for all potential salary increases from January 1, 2018 to December 31, 2018. (EXH 88, BSP 74) Nevertheless, KWRU did not submit any substantive evidence for specific raises to be given in 2018. Staff used current salary information, provided by the Utility on April 25, 2018, to annualize employee salaries.

Therefore, staff believes it is not appropriate to include a 4 percent raise for all of KWRU's employees. Staff recommends an adjustment of \$38,597 to decrease salary and wage expense.

### **Overtime**

The Utility's requested overtime expense of \$48,288 is comprised of \$29,426 of projected scheduled overtime and \$18,863 of projected unscheduled overtime. (EXH 25) In response to interrogatories, KWRU stated that, "there is no meaningful distinction between scheduled and unscheduled overtime. Overtime, whether scheduled or unscheduled, is paid at the same rate." (EXH 88, BSP 74) Table 18.1 shows KWRU's historical overtime expense by year. (EXH 37 P 17-18)

**Table 18-1**  
**KWRU's Historical Overtime Expense**

<b>Year</b>	<b>Overtime Expense</b>
2013	\$13,167
2014	\$22,037
2015	\$14,734
2016	\$15,653
2017	\$38,995

Source: EXH 37, P 17-18

The Utility's requested overtime expense of \$48,288 is significantly higher than any amount spent on overtime in the recent five years. KWRU failed to submit sufficient documentation supporting such a large amount in projected overtime expense. In addition, witness Johnson testified that a full staff could reduce the amount of overtime needed. (TR 171) OPC Witness Schultz recommended a four-year average from 2013-2016. (EXH 36, P 16) Staff believes it is reasonable to include the \$38,995 of overtime incurred in 2017 due to periodic events such as hurricanes and plant expansions. (TR 171) In addition, KWRU estimates four years as the anticipated time until another similar event like Hurricane Irma occurs. (TR 905) Therefore, staff recommends a four-year average of overtime expense from 2014-2017. This results in recommended overtime expense of \$22,855, which is a \$25,433 reduction to KWRU's request of \$48,288.

### **Overtime for Extraordinary Events**

The Utility is also requesting \$10,605 for overtime associated with extraordinary events. (EXH 54, P 6) \$10,605 represents the five-year amortization portion of \$53,025, which is a projected amount to cover overtime associated with a hypothetical future extraordinary event. (TR 174) Witness Johnson testified that, "the Utility analyzed the potential additional impact of an 'extraordinary event,' and determined that we could have reasonably needed staff to work three hours per day overtime for a period of six weeks." (TR 904) In addition to this request, KWRU is requesting the amortization of \$7,440 of overtime incurred relating to Hurricane Irma, an extraordinary event that affected the Utility in 2017. (TR 158-161; EXH 22, P 1) The large amount of overtime spent in 2017 was included in staff's calculated average overtime to



Date: July 26, 2018

incorporate a year with an extraordinary event. By including the salaries and wage expense for the full complement of 14 employees and an allowance for overtime, it would be duplicative to include additional overtime for a potential extraordinary event. Therefore, staff recommends a decrease of \$10,605 for overtime associated with extraordinary events.

### Capitalized Labor

As discussed in Issue 4, staff is recommending the capitalization of employees' salaries related to the future WWTP rehabilitation projects. Therefore, staff recommends reducing salaries and wage expense by \$15,690. (EXH 82 BSP 142)

**Table 18-2**  
**Recommended Adjustments**

<b>Description</b>	<b>Requested</b>	<b>Adjustment</b>	<b>Staff Recom.</b>
Employee Expense	\$124,055	\$5,555	\$129,610
Officer Expense	5,896	1,125	7,021
4 Percent raise	38,597	(38,597)	0
Overtime	48,288	(25,433)	22,855
Extraordinary Event	<u>10,605</u>	<u>(10,605)</u>	<u>0</u>
Total	<u>\$1,014,130</u>	<u>(\$67,955)</u>	<u>\$946,175</u>
Less Capitalized Labor			<u>(15,690)</u>
<b>Total</b>			<u><b>\$930,485</b></u>

Source: EXH 92, BSP 144; EXH 25; EXH 54, P 6

### CONCLUSION

Based on staff's recommended adjustments, total salaries and wage expense should be \$930,485. Accordingly, salaries and wage expense should be decreased by \$83,645. Table 18-2 above summarizes the adjustments recommended by staff.

**Issue 19:** What is the appropriate amount of employee pensions & benefits expense?

**Recommendation:** The appropriate amount of employee pensions and benefits expense is \$214,070. Accordingly, employee pensions and benefits expense should be decreased by \$3,487. KWRU should be required to submit documentation to the Commission for the profit sharing plan detailing the percentage of contribution allocated to each employee and officer of the Utility on a yearly basis as a supplemental schedule to be included with the Company's annual report. If the Utility reduces its contribution or terminates the plan, the Utility should notify the Commission in writing within 30 days. If the plan is modified or terminated, the Commission may take further action, if necessary. (Sewards)

**Position of the Parties**

**KWRU:** \$236,540.

**OPC:** The appropriate amount of employee pensions and benefits expense is \$167,056.

**Monroe County:** The appropriate amount of employee pensions and benefits expense is \$167,056.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its brief, the Utility stated that the disagreement between the parties is the allowance of the pension plan. (KWRU BR 19) KWRU argued the appropriate amount of employee pensions and benefits expense is \$236,540. (EXH 54, P 8; KWRU BR 19) KWRU asserted the pension plans of FKAA and Keys Energy exceed the cost of the Utility's plan. (TR 184-185) The Utility added the plan had been well received and employment levels have been consistent since implementation of the profit sharing plan. (TR 274)

Also, in its brief, KWRU refuted OPC and the County's insinuation that because the plan is terminable, the Utility can discontinue it to obtain additional profits. (KWRU BR 20) KWRU maintained that they did not believe the plan could be terminated because the Utility has made a promise and agreement with employees to fund the plan. (TR 210-211; KWRU BR 20) KWRU further elaborated that termination of the plan would require IRS approval and would incur penalties. (TR 814-815; KWRU BR 20)

**OPC**

In its brief, OPC asserted that the originally requested pensions and benefits expense should be reduced to reflect a corresponding adjustment to OPC's recommended reduction to salaries and wage expense and to reduce employee training expense. (OPC BR 24) Overall, OPC presented an adjusted pension and benefit expense of \$167,056. (OPC BR 24)

OPC stated that the Utility did not justify the additional expense to recognize the new pension plan. (TR 604-605; OPC BR 24) OPC noted that companies are replacing traditional pension

Date: July 26, 2018

plans with 401K arrangements, yet are able to hire and retain employees. (OPC BR 25) As such, OPC argued it is not appropriate for KWRU to “offer gold-plated benefits to its employees.” (TR 604-605; OPC BR 24) OPC cited KWRU’s claim that the pension plan was a significant factor in retention of employees; however, the Utility also claimed retention issues were due to excessive overtime. (EXH 37, P 16; OPC BR 25) OPC contended the Utility did not provide evidence supporting the actual cost of the proposed pension plan. (OPC BR 25) OPC asserted that based on the discussion above, the requested additional expense of \$10,141 should not be included. (OPC BR 26)

OPC agreed with KWRU’s calculation of pensions and benefits expense using 20.67 percent multiplied by the salaries and wage expense. (OPC BR 26) However, OPC clarified if an adjustment is made to salaries and wage expense, a corresponding adjustment to pensions and benefits expense is also necessary. (OPC BR 26)

OPC asserted \$10,383 for employee training expense was excessive. (TR 619; OPC BR 26) OPC indicated this expense fluctuated from year-to-year and that the test year is considerably higher than actual amounts in 2014, 2015, and 2017. (EXH 93, BSP 154; EXH 37, P 20; OPC BR 26) OPC stated the test year included two trips for \$3,061 and \$5,512 that appear to be excessive in the same year. (EXH 93, BSP 154; OPC BR 26) OPC made an adjustment based on a four-year average of employees training expense, resulting in a reduction of \$4,171. (TR 620)

### **Monroe County**

In its brief, the County agreed with OPC. (County BR 25)

## **ANALYSIS**

In its original filing, KWRU requested an increase of \$54,961 to pensions and benefits expense for a total of \$217,557. (EXH 2, P 31) The Utility included this increase to recognize the requested pro forma salaries and wages, as well as the replacement of KWRU’s 401K plan with a profit sharing plan. (TR 152; EXH 2, P 28) However, the Utility subsequently increased its request by \$18,983 for a total of \$236,540 to reflect the full incremental additional cost of the new profit sharing plan, as well as an update to the requested salaries and wage expense. (TR 905-906; EXH 54, P 8)

### **Profit Sharing Plan**

KWRU witness Johnson testified the Utility has faced retention problems and employee turnover on a yearly basis. (TR 152) He also identified at least five people in the last five years that left, in part, because KWRU did not offer competitive retirement benefits. (TR 208-209) Witness Johnson contended KWRU could improve retention and reduce turnover through implementation of the profit sharing plan. (TR 153) Witness Johnson specified the profit sharing plan stated the Utility will provide five percent of salaries towards a retirement plan for each employee. (TR 214) He elaborated the vesting plan would begin after two years of employment, and the employee would be fully vested after six years, which provides incentive for employees to remain for at least six years. (TR 210; KWRU BR 19)

OPC witness Schultz testified the Utility did not provide sufficient evidence supporting its claim of high employee turnover is due to its current benefits package or that the new pension plan

Date: July 26, 2018

would solve the retention problem. (TR 605) In its brief, OPC contended that the document provided in support of the profit sharing plan included language that was incomplete and did not address all employees. (EXH 100, BSP 243; OPC BR 25) OPC explained the document indicated that non-highly compensated employees may be paid five percent or one-third of the highest allocation rate for any highly paid employee. (EXH 100, BSP 243; OPC BR 25) A highly paid employee is defined as a five percent owner, or an employee with compensation in excess of \$80,000. (EXH 100, BSP 243) However, the document did not include a provision indicating the contribution amount that would be made for the employees and officers who earn more than \$80,000. (EXH 100, BSP 243)

Staff agrees that employee retention has been a long-standing issue for the Utility. The new profit sharing plan could reduce turnover and improve employee relations. As such, staff believes it is appropriate to recognize the new profit sharing plan.

However, staff reviewed the document provided in support for the profit sharing plan and recognizes OPC's concern regarding the lack of important details. Furthermore, the document specifies the non-elective contribution made by KWRU is a discretionary amount decided by the Utility on a yearly basis. (EXH 100, BSP 243) KWRU witness Johnson stated he did not believe the Utility could terminate the profit sharing plan. (TR 210-211) KWRU witness Swain added that the IRS would not allow termination without proper documentation and could reverse tax deductions taken by the Utility in prior years. (TR 814-815) Notwithstanding the foregoing, witness Johnson agreed the contribution was a discretionary amount. (TR 215) As such, staff recommends the Commission require KWRU to submit documentation to the Commission, detailing the total amount and the percentage of contribution allocated to each employee and officer of the Utility on a yearly basis as a supplemental schedule to be included with the Company's annual report. If the Utility reduces its contribution or terminates the plan, the Utility should notify the Commission in writing within 30 days. If the plan is modified or terminated, the Commission may take further action, if necessary.

KWRU witness Swain indicated in the original filing, an adjustment of \$10,141 was made to add one percent of salaries for the additional cost of the new pension plan. (TR 774) Subsequently, witness Swain determined this number did not represent the full incremental costs of implementing the profit sharing plan. (TR 774) Witness Swain stated the increase in expense should be calculated as five percent of the total requested salaries and wage expense, plus setup costs of \$5,200, less the test year amount of \$18,001 paid toward the 401K plan. (TR 775)

Staff agrees with KWRU witness Swain's updated methodology to calculate the incremental cost of the profit sharing plan. However, staff recommends the incremental cost be calculated at five percent of staff's recommended salaries and wage expense as detailed in Issue 18. Additionally, as setup costs are a one-time, nonrecurring expense, it should be amortized over a five-year period, pursuant to Rule 25-30.433(8), F.A.C. This results in setup costs of \$1,040 ( $\$5,200 / 5$ ). Staff recommends a corresponding adjustment to increase working capital allowance by \$4,160 to reflect the unamortized balance. As such, staff recommends the incremental increase should be \$30,348 ( $\$946,175 \times 5\% + \$1,040 - \$18,001$ ). (EXH 2, P 31) This represents an increase of \$20,207, based on KWRU's originally filed MFRs.

### Pro Forma Pensions and Benefits

KWRU witness Swain stated pensions and benefits expense should be increased further as a corresponding adjustment to requested pro forma salaries. (EXH 2, P 28) Witness Swain utilized a percentage increase of 20.67, calculated as the total test year pensions and benefits expense divided by salaries and wage expense as presented in the MFRs (\$162,596 / \$786,689). (EXH 2, P 31) Staff agrees with this methodology. However, the test year balance utilized for salaries and wages should be adjusted to recognize the removal of test year pension plan expense of \$18,001 identified above, as well as to reduce test year employee training expense by \$4,310 and to increase employee relations by \$489, as discussed below. As such, the proper test year ratio to be applied to pro forma salaries is 17.89 percent (\$140,774 / \$786,689).

As such, staff recommends pro forma pensions and benefits expense of \$28,539 to reflect the proper test year ratio. This represents a decrease of \$16,281, based on KWRU's originally filed MFRs. (EXH 2, P 31)

### Employee Training

In direct testimony, OPC witness Schultz presented an adjustment to employee training expense. (TR 619) Witness Schultz testified that, when compared to the balances of 2013 to 2016, the test year balance of \$10,383 is too high. (TR 619) Witness Schultz recommended the use of a four-year average from 2013 to 2016 to normalize the fluctuation observed from year-to-year. (TR 619) In rebuttal testimony, KWRU witness Swain disagreed with this methodology. (TR 784) Witness Swain noted the use of calendar years was not representative of the current test year. (TR 784) Staff agrees with OPC witness Schultz that the expense is volatile and should be normalized. However, staff believes the use of a three-year average based on the most recent three years is more representative of ongoing operations. As such, staff recommends a reduction of \$4,310 to employee training expense based on a three-year average as detailed in Table 19-1 below.

**Table 19-1**  
**Employee Training Expense – Three-Year Average**

<b>Year</b>	<b>Amount</b>
2015	\$3,937
2016	\$12,348
2017	\$1,934
Average	\$6,073
Test Year	<u>\$10,383</u>
Adjustment	<u>(\$4,310)</u>

Source: EXH 37, P 20; EXH 93, BSP 154; EXH 95, BSP 176

### Employee Relations

As will be addressed in Issue 25, staff recommends bad debt expense of \$2,443, representing an employee loan, be reclassified as an employee relations expense, and amortized over five years. As such, employee relations expense should be increased by \$489 (\$2,443 / 5). Staff

Date: July 26, 2018

recommends a corresponding adjustment to increase working capital allowance by \$1,954 to reflect the unamortized balance.

### **Capitalized Labor**

As discussed in Issue 4, staff is recommending the capitalization of employees' salaries related to the future WWTP rehabilitation projects. A corresponding adjustment should be made to decrease pensions and benefits expense by \$3,592 to reflect the pension and benefits ratio recommended by staff.

### **CONCLUSION**

In total, staff recommends an adjustment to decrease pensions and benefits expense by \$3,487 ( $\$16,281 - \$20,207 + \$4,310 - \$489 + \$3,592$ ), based on the originally filed request of \$217,557. Therefore, the appropriate amount of employee pensions and benefits expense is \$214,070.

Staff also recommends that KWRU be required to submit documentation to the Commission for the profit sharing plan detailing the percentage of contribution allocated to each employee and officer of the Utility on a yearly basis as a supplemental schedule to be included with the Company's annual report. If the Utility reduces its contribution or terminates the plan, it should notify the Commission in writing within 30 days. If the plan is modified or terminated, the Commission may take further action, if necessary.

Date: July 26, 2018

**Issue 20:** What is the appropriate amount of sludge hauling, chemicals, and purchased power expenses?

**Recommendation:** The appropriate expense amounts are \$164,848 for sludge hauling, \$231,742 for chemicals, and \$232,003 for purchased power. Accordingly, purchased power expense should be increased by \$13,237. (Knoblauch, Sowards)

### **Position of the Parties**

**KWRU:** The appropriate amount of sludge hauling expense is \$164,848; the appropriate amount of chemicals is \$231,742; the appropriate amount of purchased power is \$240,106.

**OPC:** The appropriate amounts of sludge hauling, chemicals, and purchased power expenses are as follows: sludge hauling expense: \$188,372; chemicals expense: \$231,742; and purchased power expense: \$186,185.

**Monroe County:** The appropriate amounts for these expense items are: Sludge Removal Expense - \$196,397, Chemicals - \$241,614, and Purchased Power - \$194,116, for a total of \$632,127. This includes additional amounts for the incremental variable costs that KWRU would incur to treat the additional gallons supported by the County's witnesses.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

In its brief, KWRU stated OPC initially agreed with the costs of sludge hauling, chemicals, and electrical costs. (TR 360) The Utility claimed OPC and the County no longer agree due to an update introduced by KWRU in rebuttal testimony which documented an increase in electric rates for the Utility. (EXH 76; EXH 150)

### **OPC**

In its brief, OPC stated the Utility did not properly support the calculation of its updated adjustment to purchased power expense. (TR 1075-1076; OPC BR 27) OPC contended KWRU used an inappropriate 14-month period to calculate average use. (TR 1075; OPC BR 27) OPC also noted the Utility's calculation did not include all components of the invoices. (OPC BR 27) OPC concluded the annual purchased power expense should be \$186,185, based on the most recent rates applied to the most recent 12 months. (OPC BR 27)

OPC stated that KWRU did not revise its requested amounts for chemicals expense; therefore, no adjustment should be made, and the annual test year expense for chemicals should be \$231,742. (OPC BR 27) OPC argued that an adjustment was made to the sludge hauling expense after the test year amount was updated by the Utility. OPC affirmed that the appropriate sludge removal expense should be the amount included in KWRU's original filing of \$164,848 with an adjustment of \$23,523 made by the staff auditor. As a result, the annual adjusted sludge hauling expense should be \$188,372. (OPC BR 27)

Date: July 26, 2018

### **Monroe County**

In its brief, the County recommended an increase of 4.26 percent to the amounts provided by OPC for sludge removal expense, chemicals, and purchased power expenses. (County BR 25) The County explained the increase of 4.26 percent was based on the increase of gallons treated as presented by County witnesses. (County BR 25) The County stated KWRU agreed these three expenses would change if additional gallons were treated by the Utility. (TR 90; TR 1021)

### **ANALYSIS**

As discussed in Issue 15, staff recommends no adjustments be made related to the County's proposal to increase gallons treated by 4.26 percent. As such, staff recommends that no corresponding adjustments to sludge hauling, chemicals, and purchased power expenses be made as proposed by the County.

### **Sludge Hauling**

As addressed in Issue 17, Audit Finding 4 included an adjustment to increase sludge removal expense by \$23,523. (EXH 52, P 12) KWRU witness Swain recognized this adjustment in her updated Schedule B-6. (EXH 54, P 8) Staff recommends this adjustment be accepted; therefore, the audited test year balance is \$118,124 (\$94,601 + \$23,523). However, the Utility reduced its pro forma request by the same amount to maintain a total requested sludge hauling expense of \$164,849, as established in its originally filed MFRs. (EXH 2, P 31; EXH 54, P 8)

Due to the increased flows at KWRU's WWTP, the production of biosolids correspondingly increased and the drying beds were unable to handle the amount of biosolids produced during peak periods. Consequently, the Utility required hauling of liquid sludge. (EXH 7, P 1) KWRU witness Johnson provided a sludge hauling cost estimate calculated by the Utility's engineer of record. (EXH 7) The annual cost for sludge hauling for 2018 was estimated to be \$164,859. (EXH 7, P 2) The Utility's estimate was based on actual historic operating and cost data, as well as estimated future flows. Based on staff's review, the variables and assumptions relied on by the Utility to calculate the 2018 costs for sludge hauling appear to be appropriate. Staff believes the Utility's total requested expense of \$164,849 is reasonable. As such, staff recommends an increase of \$46,724 to sludge hauling expense, based on the audited test year balance of \$118,124. (EXH 2, P 31)

### **Chemicals**

In its original filing, the Utility included a test year balance of \$142,466 for chemicals expense. (EXH 2, P 31) Subsequently, KWRU increased its test year balance by \$587 to \$143,053 to recognize an error in the originally filed MFRs. (EXH 54, P 8) Using the general ledger, staff verified KWRU's increase of \$587 is appropriate and should be made to the test year balance. (EXH 93, BSP 154) However, the Utility reduced its pro forma request by the same amount to maintain a total requested chemicals expense of \$231,742, as established in its originally filed MFRs. (EXH 2, P 31; EXH 54, P 8)

KWRU's filing also included a test year adjustment of \$89,276. In response to staff discovery, KWRU explained that the test year did not fully capture operation of the new treatment plant. (EXH 87, P 37; EXH 101, P 259) The adjustment was made to reflect the amount of chemicals that will be needed to meet the DEP permit conditions on a consistent basis with all three



Date: July 26, 2018

treatment plants on-line. (TR 143) In response to discovery, KWRU provided support for the adjustment to chemicals with the annual cost of chemicals totaling \$231,742. (EXH 94, P 164) Staff believes the Utility's total requested expense of \$231,742 is reasonable. As such, staff recommends an increase of \$89,276 to chemicals expense based on the originally filed request of \$142,266. (EXH 2, P 31)

### **Purchased Power**

As addressed in Issue 17, Audit Finding 4 included an adjustment to decrease purchased power expense by \$11,521. (EXH 52, P 12) Staff recommends this adjustment be accepted; therefore, the appropriate test year purchased power expense is \$207,246 (\$218,766 - \$11,521).

In its original filing, the Utility requested an increase of \$46,154 to purchased power expense for a total of \$218,766. (EXH 2, P 31) KWRU witness Johnson testified that to calculate the increase, the Utility used the months in which all three plants were online and annualized this information to represent a full year of purchased power expense with all three plants online. (TR 143-144) In his rebuttal testimony, Utility witness Johnson increased the request to \$79,014, for a total of \$240,106, to recognize the audit adjustment discussed above and an increase in rates from Keys Energy Services (KES). (TR 793; TR 912; EXH 54, P 8) Witness Johnson testified purchased power is projected to cost \$20,008 each month as a result of the higher rates. (TR 912) However, based on the information provided, staff was unable to determine how the projected increase in costs was calculated. (EXH 76)

Utility witness Johnson also provided bills from KES for January of 2017 through April of 2018. (EXH 76) In addition, at the technical hearing, KWRU presented the 2016 and 2018 Tariffs for KES detailing the increase in rates for the Utility. (EXH 149 and 150) Staff agrees an additional adjustment to purchased power expense to recognize all three plants in service and the increase in rates from KES is appropriate. However, as staff is unable to verify witness Johnson's calculation, staff believes it is appropriate to calculate purchased power expense using the most recent 12 months of billed usage at the rate KES placed into effect in January 2018. (EXH 76; EXH 150) As such, staff recommends an increase of \$24,757 to purchased power expense, based on the audited test year balance of \$207,246. (EXH 2, P 31)

## **CONCLUSION**

Staff recommends an adjustment to increase sludge hauling expense by \$46,724 based on the audited test year balance of \$118,124. As such, the appropriate amount of sludge hauling expense is \$164,848. Staff recommends an adjustment to increase chemicals expense by \$89,276 based on the originally filed request of \$142,466. As such, the appropriate amount of chemicals expense is \$231,742. Staff recommends an adjustment to increase purchased power expense by \$13,237 based on the originally filed request of \$218,766. As such, the appropriate expense amounts are \$164,848 for sludge hauling, \$231,742 for chemicals, and \$232,003 for purchased power.

Date: July 26, 2018

**Issue 21:** What is the appropriate amount of materials and supplies expense?

**Recommendation:** The appropriate amount of materials and supplies expense is \$42,468. Accordingly, materials and supplies expense should be decreased by \$55,070. Further, a corresponding adjustment should be made to increase contractual services – other by \$43,290. (Sewards)

**Position of the Parties**

**KWRU:** \$42,751.

**OPC:** The appropriate amount of materials and supplies expense is \$76,173.

**Monroe County:** The appropriate amount of materials and supplies expense is \$76,173.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its brief, KWRU asserted that the appropriate amount of materials and supplies expense is the test year amount as presented in the updated MFRs. (EXH 54, P 8; KWRU BR 21) The Utility explained the originally filed MFRs required correction as certain general ledger entries included in materials and supplies should have been classified under contractual services – other. (TR 780-781)

The Utility contended that the price of labor and materials has increased since 2014. (KWRU BR 21) KWRU noted that materials in the Keys are significantly higher due to the high cost of living, lack of skilled workers, and the need to ship items long distance. (KWRU BR 21) Additionally, the Utility stated it planned to use in-house labor to perform work required to prepare for the rehabilitation of the original two treatment plants. (TR 906) KWRU indicated that if fully staffed, the Utility can perform project work that would normally require an outside contractor. (TR 906) However, an adequate amount of materials and supplies expense is necessary for work to be completed. (TR 906) In addition, performing work in-house would provide the Utility with overall cost savings on future projects. (TR 907)

**OPC**

In its brief, OPC stated materials and supplies expense is significantly higher than the test year amount provided in the last rate case. (TR 613; OPC BR 28) OPC noted that the Utility made an adjustment to categorize expenses correctly between material and supplies expense and contractual services – other. (TR 780-781; EXH 54, P 8) However, OPC contended KWRU did not address the fact that the test year total amount of both accounts was still 28 percent higher than the amounts for the two accounts approved in the last rate case. (OPC BR 28) As such, OPC recommended that materials and supplies and contractual services – other should be decreased to the amounts approved in the last rate case. (OPC BR 28)

Date: July 26, 2018

**Monroe County**

In its brief, the County agreed with OPC. (County BR 26)

**ANALYSIS**

In its original filing, the Utility included a test year balance of \$97,538 for materials and supplies. (EXH 2, P 31) Subsequently, KWRU decreased its test year balance by \$11,497 to recognize an error in the originally filed MFRs. (EXH 54, P 8) However, Audit Finding 4 included an adjustment to decrease materials and supplies expense by \$11,780. (EXH 52, P 12) As addressed in Issue 17, staff recommends Audit Finding 4 be accepted. Therefore, staff recommends the audit adjustment be recognized in lieu of KWRU witness Swain's test year adjustment.

KWRU witness Swain indicated another error was discovered in the originally filed MFRs. (TR 779-780) Witness Swain stated \$43,290 of the test year balance should have been included in contractual services – other. (TR 780-781) To correct this error, witness Swain decreased materials and supplies expense by \$43,290 and increased contractual services – other by the same amount. (TR 780-781) In its brief, OPC did not refute this reclassification; however, it maintained that the total balance of the two expenses is 28 percent higher than the amounts approved in the last rate case and should be decreased to match the previously approved amounts of \$31,119 for materials and supplies expense, and \$45,054 for contractual services – other. (OPC BR 28) OPC concluded that the Utility can expect expenses included in these two accounts to decrease, as it has increased salaries and benefits expense to improve retention and perform more in-house maintenance. (OPC BR 28) This would result in a reduction of \$21,365 to the total amount requested for materials and supplies expense and contractual services – other. (OPC BR 28)

Staff examined the 2016 and 2017 general ledgers provided and has verified KWRU misclassified the two accounts as presented in the MFRs. (EXH 2, P 8; EXH 93, BSP 154) As such, staff recommends materials and supplies expense be reduced by an additional \$43,290 and contractual services – other be increased by the same amount.

Staff believes it is not appropriate to make an adjustment to reduce the expenses to the levels approved in the last rate case as suggested by OPC. (OPC BR 28) The amounts approved in the last rate case were based on annualizing nine months of actual 2016 expenses to reflect a full year of expenses.<sup>20</sup> Staff reviewed the 2016 general ledger and notes actual expenses in 2016 were \$45,257 and \$46,929 for materials and supplies expense and contractual services – other, respectively. (EXH 93 BSP 154) As such, staff believes the current test year is more representative of ongoing operations and no further adjustment is necessary.

**CONCLUSION**

Based on the above, staff recommends that the balance of materials and supplies expense should be \$42,468 (\$97,538 - \$11,780 - \$43,290). Accordingly, materials and supplies expense should

---

<sup>20</sup> Order No. PSC-17-0091-FOF-SU, pp. 45-46.

Date: July 26, 2018

be decreased by \$55,070. Further, staff recommends a corresponding adjustment to increase contractual services – other by \$43,290.

Date: July 26, 2018

**Issue 22:** What is the appropriate amount of contractual services – engineering expense?

**Recommendation:** The appropriate amount of contractual services – engineering expense is \$9,395. Accordingly, contractual services – engineering expense should be decreased by \$11,370. (Knoblauch)

**Position of the Parties**

**KWRU:** \$16,000.

**OPC:** The appropriate amount of contractual services – engineering expense is \$11,438.

**Monroe County:** The appropriate amount of contractual services – engineering expense is \$11,438.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU stated that the engineering expense of \$20,765 for the test year, as provided in the MFRs, should be adjusted to account for the permit renewal cost of \$11,168. (KWRU BR 22) Contrary to OPC's assertion, the Utility did not believe that a five-year average was appropriate to determine engineering expense, since the third treatment plant was not operational in prior years and the expenses did not reflect the plant addition. (KWRU BR 22) KWRU stated that OPC identified WWTP rehabilitation project engineering costs totaling \$7,206, which did not relate to that specific project. (KWRU BR 22) If removed from engineering expense, the Utility specified that contractual services – engineering expense should be increased by this amount. (KWRU BR 22)

**OPC**

In its brief, OPC stated that the contractual services – engineering expense of \$20,765 included costs totaling \$11,659 for permit renewal. (OPC BR 29) The FDEP operating permit was last renewed during the test year, and requires renewal every five years. (OPC BR 29) Therefore, OPC asserted that the permit costs totaling \$11,659 are nonrecurring and should be amortized over five years, corresponding to the permit renewal period, and would result in a reduction to engineering expense of \$9,327. (OPC BR 29)

**Monroe County**

In its brief, the County agreed with OPC. (County BR 27)

**ANALYSIS**

The engineering expense for the test year, as recorded in KWRU's filing, was \$20,765. As discussed by both KWRU and OPC, the engineering expense of \$20,765 included permit renewal costs of \$11,658. (EXH 95, P 180) KWRU and OPC agreed that engineering expenses related to the permit renewal should be amortized over five years, pursuant to Rule 25-30.433(8),

Date: July 26, 2018

F.A.C. (TR 615; TR 782) As such, amortizing the permit costs over five years results in a decrease to contractual services – engineering expense of \$9,327. Additionally, staff recommends the unamortized balance of \$9,327 be added to the working capital allowance.

OPC witness Schultz identified in his direct testimony several invoices totaling \$1,425, which were related to pro forma plant projects and should be included in Utility Plant in Service. (TR 616) Staff verified that the costs were related to the WWTP rehabilitation project and the amounts were removed from contractual services – engineering and reclassified to the rehabilitation project. Additionally, staff identified two invoices totaling \$618 that were included in both contractual services – engineering expense and in the engineering invoices for the WWTP rehabilitation project. Therefore, staff recommends these costs be removed from contractual services – engineering expense. (EXH 9; EXH 93, P 154)

### **CONCLUSION**

Based on the above, staff recommends the balance of contractual services – engineering expense is \$9,395 (\$20,765 - \$9,327 - \$1,425 - \$618). Accordingly, contractual services – engineering expense should be decreased by \$11,370.

**Issue 23:** What is the appropriate amount of rental of equipment expense?

**Recommendation:** The appropriate amount of rental of equipment expense is \$465. Accordingly, rental of equipment expense should be decreased by \$1,258. (Sewards, Knoblauch)

**Position of the Parties**

**KWRU:** \$1,479.

**OPC:** The appropriate amount of rental of equipment expense is zero.

**Monroe County:** The appropriate amount of rental equipment expense is zero.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its brief, the Utility asserted that the purchase of the crane truck may eliminate some rental expense. (EXH 102, BSP 272-273; KWRU BR 22) However, larger equipment will still be required periodically. (EXH 102, BSP 272-273; KWRU BR 22) KWRU claimed the proper amount of rental expense is the test year balance as presented in the updated MFRs. (EXH 54, P 8).

**OPC**

In its brief, OPC contended rental of equipment expense has fluctuated over the previous five years, including years in which no rental expense was booked. (TR 618) OPC also noted the Utility admitted the expenses were anticipated to occur less frequently in the future; however, it could not determine the number of future equipment rentals. (EXH 100, BSP 245) OPC claimed that as KWRU could not support a specific expense level on a going forward basis, the expense should be disallowed. (TR 618; OPC BR 29)

**Monroe County**

In its brief, the County agreed with OPC. (County BR 7)

**ANALYSIS**

In its original filing, the Utility included a test year balance of \$1,723 for rental of equipment expense. (EXH 2, P 31) Subsequently, KWRU decreased its test year balance by \$244 to \$1,479 to recognize an error in the originally filed MFRs. (EXH 54, P 8) Using the general ledger, staff verified that KWRU's reduction of \$244 is appropriate and should be made. (EXH 93, BSP 154)

As reflected in its filing, the Utility requested a pro forma plant adjustment to purchase a crane truck. (EXH 2, P 5) As addressed in Issue 4, staff recommended the pro forma plant adjustment for a crane truck should be included. OPC asserted that if KWRU is including a pro forma adjustment to purchase a crane truck, it should also recognize the cost savings achieved through reduced rental expense. (TR 618) The Utility stated rental expense was anticipated to occur less frequently in the future due to the purchase of the crane truck. (EXH 100, BSP 245) OPC witness

Date: July 26, 2018

Schultz testified there was no evidence to support future equipment rental and recommended an adjustment to remove the Utility adjusted test year amount of \$1,479.

Staff agrees that a corresponding adjustment is appropriate to recognize expenses that will be avoided in the future due to the purchase of a crane truck. However, staff does not agree that the entire expense should be removed. KWRU specified the crane truck would obviate the need for fork lift rentals as required for maintenance of pump stations. (EXH 100, BSP 245) However, rental of a full size crane is still periodically necessary for heavy work that the crane truck can not perform. (EXH 89, BSP 104; EXH 102, BSP 272-273) Staff reviewed the test year general ledger and recommends an adjustment to remove rental expense related to fork lifts needed for pump stations. (EXH 93, BSP 154) As such, staff recommends an additional reduction of \$1,014.

### **CONCLUSION**

Based on the above, staff recommends a rental of equipment expense of \$465 (\$1,723 - \$244 - \$1,014). Accordingly, rental of equipment expense should be decreased by \$1,258.



**Issue 24:** What is the appropriate amount of insurance – worker’s comp expense?

**Recommendation:** The appropriate amount of insurance – worker’s comp expense is \$32,212. Accordingly, insurance – worker’s comp expense should be decreased by \$3,861. (Sewards)

**Position of the Parties**

**KWRU:** \$34,607.

**OPC:** The appropriate amount of insurance – worker’s comp expense is \$29,386.

**Monroe County:** The appropriate amount of allowable expense for worker’s comp insurance is \$29,386.

**Staff Analysis:**

**PARTIES’ ARGUMENTS**

**KWRU**

In its brief, KWRU stated that worker’s comp expense is a fall out calculation. (KWRU BR 22) The Utility proposed that the amount of worker’s comp expense should be increased by 4.4 percent of requested pro forma salaries and wage expense as established in the previous rate case. (TR 616; EXH 37, P 27)

**OPC**

OPC asserted that since worker’s comp expense is established as a percentage of salaries, the historic percentage of 3.5 percent, as shown in the test year, should be the basis for this expense. (OPC BR 30) OPC stated that because they are recommending no increase for pro forma salaries and wages, worker’s comp should stay the same as well. (TR 617) However, OPC also indicated that worker’s comp should be calculated as 3.5 percent of OPC’s recommended salaries of \$839,613. (OPC BR 30)

**Monroe County**

In its brief, the County agreed with OPC. (County BR 27)

**ANALYSIS**

In its original filing, KWRU requested an increase of \$8,839 to insurance – worker’s comp expense for a total of \$36,073. (EXH 2, P 31) KWRU calculated the increase by multiplying its requested pro forma salaries and wage expense by 4.4 percent. (EXH 37, P 27) The Utility contended 4.4 percent was the approved ratio determined in the previous rate case.<sup>21</sup> Therefore, KWRU argued that it is appropriate to apply this percentage to requested pro forma salaries.

In its brief, OPC argued that the percentage used to increase worker’s comp should be updated to reflect the ratio demonstrated in the current test year. (OPC BR 30) Staff agrees that it is

---

<sup>21</sup> Order No. PSC-17-0091-FOF-SU, p. 48.

Date: July 26, 2018

appropriate to update the percentage applied to pro forma salaries and wage expense to reflect the current test year. Based on the MFRs, test year worker's comp was \$27,234 and total salaries and wage expense was \$786,689 (\$541,065 + \$245,624), resulting in a ratio of 3.46 percent (\$27,234 / \$786,689). (EXH 2, P 31) Based on staff's recommended salaries and wage expense detailed in Issue 18, the Utility's pro forma request should be decreased by \$3,318.

As discussed in Issue 4, staff recommended the capitalization of employee's salaries related to the future WWTP rehabilitation projects. A corresponding adjustment should be made to decrease insurance – worker's comp expense by \$543 (\$15,690 x 3.46%) to reflect the test year ratio as well.

### **CONCLUSION**

Staff recommends an adjustment to decrease insurance – worker's comp expense by \$3,861 (-\$3,318 - \$543), based on the originally filed request of \$36,073. As such, the appropriate amount of insurance – worker's comp expense is \$32,212.

**Issue 25:** What is the appropriate amount of bad debt expense?

**Recommendation:** The appropriate amount of bad debt expense is zero. (Sewards)

**Position of the Parties**

**KWRU:** \$2,443.

**OPC:** The appropriate amount of bad debt expense is zero.

**Monroe County:** The appropriate amount of bad debt expense is zero.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its brief, the Utility stated this expense is due to an unpaid loan made to a former employee. (TR 903; KWRU BR 23) KWRU witness Johnson explained the Utility did not pursue recovery of the loan prior to writing it off as doing so would have likely caused KWRU to incur more costs than would have been recovered. (TR 904; KWRU BR 23) KWRU witness Swain added it is common to record uncollectable funds from customers as bad debt and to write off the expense, rather than turn it over to a debt collector. (TR 816; KWRU BR 23)

**OPC**

In its brief, OPC asserted that, because KWRU did not make an effort to collect the unpaid loan, the amount should be removed from rates as ratepayers should not be burdened with a cost the Utility did not try to recover. (TR 606; OPC BR 30) In addition, OPC stated it should not be considered a recurring expense because the employee is no longer with KWRU. (TR 606; OPC BR 30) OPC claimed the Utility did not provide evidence that this is a recurring expense, and had made no effort to collect the loan. (OPC BR 30)

**Monroe County**

In its brief, the County agreed with OPC. (County BR 27)

**ANALYSIS**

In its original filing, the Utility included a test year balance of \$0 for bad debt expense. (EXH 2, P 31) Subsequently, KWRU increased its test year balance to \$2,443 to recognize an error in the originally filed MFRs. (EXH 54, P 8) Using the general ledger, staff verified KWRU's increase of \$2,443 to correct this error is appropriate and should be made. (EXH 93, BSP 154) However, as discussed below, staff believes this amount should be reclassified as a pensions and benefits expense.

In its brief, OPC contended that bad debt expense should be zero. (OPC BR 31) OPC further contended that the Utility included bad debt expense of \$2,443 in miscellaneous expense in the originally filed MFRs. (OPC BR 31) Therefore, bad debt expense should be zero and an additional adjustment should be made to remove \$2,443 from miscellaneous expense. (OPC BR

Date: July 26, 2018

31) Staff reviewed the general ledger entries for miscellaneous expense and has determined KWRU did not include the bad debt expense in miscellaneous expense; as such, an adjustment to remove this expense from miscellaneous expense is not necessary. (EXH 93, BSP 154)

KWRU witness Johnson testified the \$2,443 included in bad debt expense was due to a defaulted loan granted to an employee for relocation expenses. (TR 903) Witness Johnson further explained that the Utility unsuccessfully attempted to fill this position with an individual who did not require relocation assistance. (TR 956-957) However, the Utility needed the position filled quickly and decided to offer relocation assistance to this employee. (TR 957) OPC witness Schultz argued that since the employee defaulted on the loan and the Utility did not pursue repayment, the amount should be excluded from rates. (TR 606)

Staff agrees that the loan was a reasonable expense to incur, given the difficulty to fill a necessary position quickly as described by witness Johnson. (TR 956-957) However, staff does not agree this is a recurring expense. Witness Johnson indicated KWRU has only provided assistance for relocation three times in the past, and in each previous occasion, the employees did not default on any loans provided. (TR 957) As such, staff recommends the amortization of the bad debt expense pursuant to Rule 25-30.433(8), F.A.C., which states that non-recurring expense shall be amortized over a five-year period unless a shorter or longer period of time can be justified.

In addition, upon review of the National Association of Regulatory Utility Commissioners (NARUC) uniform system of accounts (USOA), as adopted in Rule 25-30.115, F.A.C., staff believes the defaulted loan was incorrectly classified as a bad debt expense. The NARUC USOA details that “this account shall be charged with an amount sufficient to provide for losses from uncollectible utility revenues.” Additionally, staff notes upon review of the general ledger, the loan was originally booked as an employee relations expense. (EXH 93, BSP 154) As such, staff recommends that the defaulted loan should be reclassified as an employee relations expense in the determination of pensions and benefits expense.

### **CONCLUSION**

Based on staff’s adjustments above, bad debt expense of \$2,443 should be reclassified to pensions and benefits expense and amortized over a five-year period. Therefore, the appropriate amount of bad debt expense is zero.

Date: July 26, 2018

**Issue 26:** What is the appropriate amount to be recovered by the Utility for storm restoration expenses due to Hurricane Irma, and over what period should such expenses be recovered?

**Recommendation:** Staff recommends a total of \$234,979 for hurricane costs. This expense should be amortized over five years for an annual expense of \$46,996. Based on the Utility's original MFR filing, the annual amortization of hurricane costs should be decreased by \$7,022. (Knoblauch, Sowards)

### **Position of the Parties**

**KWRU:** \$273,178, to be recovered over four years.

**OPC:** The appropriate amount for storm restoration expenses due to Hurricane Irma to be recovered by the Utility is \$177,536. These expenses should be recovered over 5 years.

**Monroe County:** The appropriate amount to be recovered for storm restoration expenses due to Hurricane Irma is \$177,536. This amount should be amortized and recovered over five years.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

KWRU argued that witness Johnson's direct testimony contained support for hurricane costs totaling \$216,072. (KWRU BR 23) As addressed and agreed upon in the testimony of both OPC witness Schultz and KWRU witness Swain, several duplicate costs (\$4,764) and insurance proceeds (\$19,393) were excluded from the total amount. (KWRU BR 23) In witness Johnson's rebuttal, the hurricane expense amount was updated based on the additional time needed for generator rentals. (KWRU BR 23) The updated hurricane costs totaled \$273,169, which was an increase of \$57,095. (KWRU BR 24)

KWRU argued that the total hurricane cost was not disputed by either OPC witness Schultz or Woodcock. (KWRU BR 24) However, the Utility argued that while witness Schultz claimed he was unsure of how the additional generator rental charge was calculated, the witness did not disagree to the calculation or costs. (KWRU BR 24) KWRU stated that the witness could have verified this calculation if the total rental months from witness Johnson's rebuttal was multiplied by the rental charge. (KWRU BR 24) Instead, witness Schultz asserted that he did not have adequate time to review rebuttal testimony. (KWRU BR 24)

The Utility argued that the amortization period should not be based on non-recurring expense, but on the "expected frequency of similar occurrences." (KWRU BR 24) KWRU argued that based on the Commission's decision in Order No. PSC-06-0170A-PAA-WS,<sup>22</sup> the expenses should be amortized over four years as related to a four-year rate case cycle. (KWRU BR 24)

---

<sup>22</sup> Order No. PSC-06-0170A-PAA-WS, issued March 9, 2006, in Docket No. 050281-WS, *In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company*.

Date: July 26, 2018

### **OPC**

In its brief, OPC stated that witness Schultz made an adjustment of \$19,144 due to overstated costs. (OPC BR 31) KWRU witness Swain agreed that duplicate charges should be removed, but the costs for the generator rental should remain and extended to 11 months instead of the original estimate of six months. (OPC BR 31) OPC argued that witness Swain did not provide support for the addition of five months, and did not address the \$5,000 reduction to the estimated outstanding expenses. (OPC BR 31-32)

OPC stated that witness Schultz identified duplicate overtime amounts in salaries and wages of \$7,440. (OPC BR 32) OPC argued that this expense should not be included in the amortization of hurricane expense as an adjustment for the duplicate amounts was made in Issue 18. (OPC BR 32) For the insurance proceeds of \$19,393, OPC argued that this amount should be used to “offset” the hurricane costs, and witness Swain agreed that a reduction of \$19,393 should be made. (OPC BR 32)

OPC affirmed that pursuant to Rule 25-30.433(8), F.A.C, “non-recurring expenses shall be amortized over a five-year period unless a shorter or longer period of time can be justified.” (OPC BR 32) Based on this rule, witness Schultz testified that the hurricane expense should be amortized over five years. (OPC BR 32) Furthermore, OPC asserted that the Utility argued that according to Order No. PSC 2006-0170A-PAA-WS, hurricane costs were amortized over four years, rather than five years. (OPC BR 32) From the cited order, the utilization of four years was used to recover hurricane costs until the Utility’s next rate case. (OPC BR 32) OPC stated that based on the discussion in Issue 29, “it is not apparent that KWRU will file another rate case within the next four years” and there is not past evidence of the Utility filing a rate case every four years. (OPC BR 32)

OPC argued that a reduction of \$31,098 should be made to hurricane expense. (OPC BR 32) Additionally, the costs should be amortized over a five-year period with an annual expense of \$36,995, which is a reduction of \$17,023 to the requested expense. (OPC BR 32-33)

### **Monroe County**

In its brief, the County agreed with OPC. (County BR 28)

### **ANALYSIS**

In its original filing, KWRU requested \$216,073 for hurricane costs amortized over four years, which reflects an annual amortization of \$54,018 in miscellaneous expense. (EXH 2, P 28) The Utility’s request included expenditures for rental equipment as well as other expenditures such as water, food, and hotel rooms. KWRU witness Johnson also provided a roof estimate; however, this project was removed from hurricane expense as discussed in Issue 4.

OPC witness Schultz testified that he identified several amounts included in hurricane expense that were duplicates or were already captured in the Utility’s MFRs, and should therefore be removed. The amounts identified were charges related to information technology services, electrical setup for the temporary office, employee overtime, and the tow-behind generator. (TR 607) Witness Schultz testified that KWRU included \$15,000 for estimated hurricane repair; however, the invoices for this amount were not provided. Subsequently, the Utility provided

Date: July 26, 2018

these invoices in response to discovery and witness Schultz asserted that approximately \$10,000 of the costs could be substantiated. For the remaining \$5,000, witness Schultz recommended these costs be removed. (TR 608) Additionally, witness Schultz argued that insurance proceeds received for damages to the existing office should be used to offset the hurricane expenses. (TR 609) Considering all of the adjustments, witness Schultz decreased the requested amount of hurricane costs to \$177,535. (TR 610)

KWRU witness Swain testified in rebuttal that she agreed with the adjustments to hurricane expense that witness Schultz made related to the information technology services and electrical setup for the temporary office. (TR 777) Witness Swain also agreed the insurance proceedings received should be used to offset hurricane expenses. (TR 777) However, as discussed in Issue 4, staff recommended that the insurance proceeds should not be applied to the hurricane expenses. For the overtime charges discussed by OPC witness Schultz, witness Swain argued that these charges were not duplicates and were not already accounted for in KWRU's MFRs. (TR 776-777)

Witness Swain additionally testified that the rental for the tow-behind generator and the large generator was expected to continue for another four months. (TR 776) Witness Johnson elaborated that the original estimates for the generator rentals were revised due to updated delivery dates for the permanent backup and tow-behind generators. (TR 906) Considering the additional months for the two rentals, witness Swain testified that the updated hurricane costs totaled \$273,168. (TR 776)

OPC witness Schultz, in his surrebuttal, testified that no supporting documents were presented to verify the additional hurricane costs. Taking into consideration the lack of documentation, as well as the limited time for review, witness Schultz asserted that his recommendation for hurricane expense remained unchanged from his direct testimony. (TR 1074-1075)

Based on the testimony of OPC witness Schultz and KWRU witness Swain, staff removed the duplicate charges from hurricane expense, as agreed to by both witnesses. Staff also made adjustments to hurricane expense due to additional charges that were determined to be duplicative or lacked proper documentation. Staff also reviewed the overtime included in hurricane expense and determined that it was not already captured in KWRU's MFRs.

Staff believes that an extension of time for the tow-behind and back-up generators is needed to ensure that backup power is available for continued operation of the plant until the permanent generators are in-service. However, staff is recommending that the rental periods should only extend through August 2018 as rates should go into effect in September 2018. Staff recognizes that the rental expenses are likely to continue beyond August; however, staff's recommended rates include recovery of the pro forma additions related to the rentals.

Based on the adjustments discussed, staff recommends a decrease of \$38,189 to the Utility's requested hurricane costs of \$273,168. The resulting amount to be included as hurricane restoration expense is \$234,979.

As previously stated, the Utility requested that its hurricane expense be amortized over a period of four years. In response to staff discovery, KWRU cited Order No. PSC-06-0170A-PAA-WS

Date: July 26, 2018

as support for selecting an amortization period of four years.<sup>23</sup> (EXH 87, P 42) Furthermore, witness Johnson testified that four years was appropriate for hurricane expense as four years represents the anticipated time until another similar event. (TR 905)

For the amortization period, witness Schultz testified that pursuant to Rule 25-30.433(8), F.A.C., which states that non-recurring expenses shall be amortized over a five-year period unless a shorter or longer period of time can be justified. (TR 609) Based on the rule, witness Schultz recommended the hurricane expense should be amortized over a period of five years. (TR 609)

As discussed, KWRU cited Order No. PSC-06-0170A-PAA-WS, as the basis for its requested four-year amortization period. That Order states:

Given the growth of this utility and the above-mentioned water and wastewater plant improvements, we believe that the utility will file another rate case in approximately 2010, which is four years from our approved 2006 projected test year. Therefore, we find it appropriate to amortize the 2004 hurricane costs over four years.

No KWRU witness provided testimony that the Utility would file for another rate increase in four years. Furthermore, witness Johnson acknowledged that his assertion that four years represents the anticipated time until another similar event was unsupported by a study. Witness Johnson explained that the basis for his recommendation was personal experience as well as discussions with weather experts. Witness Johnson ultimately concluded that future weather could not be guaranteed. (TR 1019-1020) Staff does not believe that KWRU has sufficiently supported a deviation from the amortization period stated in Rule 25-30.433(8), F.A.C. Therefore, staff recommends a five-year amortization period for hurricane expense.

### **CONCLUSION**

Based on the discussion above, staff recommends total hurricane costs of \$234,979, a decrease of \$38,189 to KWRU's original request of \$273,168. This expense should be amortized over five years for an annual expense of \$46,996. Based on the Utility's original MFR filing, the annual amortization of hurricane costs should be decreased by \$7,022. Staff also recommends a corresponding adjustment to increase working capital allowance by \$187,983 to reflect the unamortized balance.

---

<sup>23</sup> Order No. PSC-06-0170A-PAA-WS, issued March 9, 2006, in Docket No. 050281-WS, *In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company*.



Date: July 26, 2018

**Issue 27:** What is the appropriate amount of miscellaneous expense?

**Recommendation:** The appropriate amount of miscellaneous expense is \$198,978. Accordingly, miscellaneous expense should be decreased by \$3,888. Miscellaneous expense should also be decreased for adjustments to pro forma expenses, as reflected in Issues 26 and 28. (Sewards)

**Position of the Parties**

**KWRU:** \$228,049.

**OPC:** The appropriate amount of miscellaneous expense is \$184,334.

**Monroe County:** The appropriate amount of miscellaneous expense is \$184,334.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its brief, KWRU asserted the appropriate amount for miscellaneous expense is the test year balance plus requested adjustments. (KWRU BR 24) The Utility added that no testimony was presented disputing its test year balance, nor any adjustments except hurricane and pro forma telephone expenses, as addressed in Issues 26 and 28, respectively. (KWRU BR 24)

**OPC**

In its brief, OPC stated miscellaneous expenses should be reduced to recognize adjustments made by staff auditors, as well as its recommended adjustments for bad debt expense, hurricane expense, telecom services, dues, and non-utility expenses. (OPC BR 33) OPC discussed adjustments for staff audit findings, bad debt expense, and hurricane expense in Issues 17, 25, and 26, respectively.

Concerning telecom expense, OPC noted the Utility requested the cost of a new phone system, in addition to the system already in place. (TR 596; OPC BR 33) OPC stated that a redundant phone system was not required by the Florida Department of Environmental Protection nor any other permit. (OPC BR 33-34) OPC claimed KWRU did not provide sufficient evidence to support its request for redundancy; therefore, the test year balance should be removed.

OPC recommended removal of membership dues from miscellaneous expense noting membership to clubs tends to be an image-building expense and that customers do not benefit from such dues. (TR 610; OPC BR 34)

OPC also asserted that KWRU included non-utility expenses for a retirement party and a Christmas party. (TR 617; OPC BR 34) OPC concluded that, as these expenses did not benefit ratepayers, they should be removed from miscellaneous expense. (TR 617; OPC BR 34)

**Monroe County**

In its brief, the County agreed with OPC. (County BR 28)

Date: July 26, 2018

## **ANALYSIS**

Staff notes audit adjustments to miscellaneous expense, hurricane expenses, and pro forma telephone expenses are discussed in Issues 17, 26, and 28, respectively.

In its original filing, the Utility included a test year balance of \$48,405 for miscellaneous expenses. (EXH 2, P 31) Subsequently, KWRU decreased its test year balance by \$1,788 to \$46,617 to recognize an error in the originally filed MFRs. (EXH 54, P 8) Using the general ledger, staff verified KWRU's reduction of \$1,788 to correct this error is appropriate and should be made. (EXH 93, BSP 154)

### **Membership Dues**

OPC witness Schultz recommended an adjustment to miscellaneous expense of \$2,163 to remove membership dues, as they were an image building expense that does not provide benefit to customers. (TR 610) KWRU witness Johnson testified that the membership dues were not for the purpose of image building, and they should be included as they are beneficial to the company and community. (TR 908-909) However, Audit Finding 4 included an adjustment to decrease miscellaneous expense by \$2,100 to remove social club dues. (EXH 52, P 12) As addressed in Issue 17, staff recommended that Audit Finding 4 be accepted. Further, KWRU agreed with the adjustments included in Audit Finding 4. (TR 761) Therefore, staff recommends the audit adjustment should be recognized in lieu of OPC's adjustment. (EXH 52, P 12)

### **Non-Utility Expenses**

In response to an interrogatory, KWRU witness Johnson identified approximately \$709 (\$296 + \$413) in costs for a retirement party for Mark Burkemper. (EXH 37, P 40) Additionally, OPC witness Schultz identified a charge of \$1,050 for a Christmas party included in the test year. (TR 617) Witness Schultz recommended an adjustment to remove the charges from miscellaneous expense as these amounts do not benefit ratepayers. (TR 617)

Staff notes the charges of \$296 and \$1,050 were booked under employee relations, included in Account 704, employee pensions and benefits; and, the charge of \$413 was booked in Account 741, rental of building/real property. (EXH 37, P 40; EXH 93, BSP 154) An adjustment to remove these charges from miscellaneous expense would be inappropriate. If an adjustment is necessary, it should be made to employee pensions and benefits expense and rental of building/real property.

KWRU witness Johnson argued the event for Mark Burkemper was to demonstrate appreciation for his contributions and to showcase the new treatment plant. (TR 909) Witness Johnson continued this was not a lavish event, as total cost of food and rental of a tent and chairs was \$709. (TR 909) Witness Johnson also specified the \$1,050 associated with the Christmas party was mischaracterized, and the expense was related to Christmas bonuses given to employees. (TR 909) Witness Johnson asserted these costs were legitimate expenditures and should not be removed. (TR 909)

Upon review of the NARUC uniform system of accounts (USOA), as adopted in Rule 25-30.115, F.A.C., staff agrees that the expenses booked for the retirement and Christmas events were properly reflected and appropriate. The NARUC USOA details Account 704 – Employee

Date: July 26, 2018

Pensions and Benefits “Include also expenses for medical, educational or recreational activities of employees.” Staff also believes as a corresponding expense, the \$414 booked for rental of the tent and chairs is appropriate as well.

In accordance with the NARUC USOA, staff believes these are reasonable and appropriate expenses as reflected in pensions and benefits as well as rental of building/real property. Therefore, no adjustment should be made to miscellaneous expense for the retirement or Christmas events/bonuses.

### **Other Miscellaneous Expenses**

In its filing, KWRU included additional adjustments to miscellaneous expense, as discussed hereafter. (EXH 2, P 28) The first was to recognize \$99,395 for amortization of Last Stand litigation expenses, as approved in the last rate case.<sup>24</sup> (EXH 2, P 28) The Utility also included a reclassification of \$405 from Account 354. (EXH 2, P 28) Staff believes these adjustments are appropriate and should be included in miscellaneous expense.

Miscellaneous expense should also be increased by \$46,996 to reflect staff’s recommended amortization of hurricane expenses, as discussed in Issue 26. Additionally, miscellaneous expense should be increased by \$7,665 to reflect staff’s recommended adjustments to test year and pro forma telephone expenses, as discussed in Issue 28.

### **CONCLUSION**

Based on staff’s recommended adjustments discussed above, the appropriate amount of miscellaneous expense is \$198,978. Accordingly, miscellaneous expense should be decreased by \$3,888 (- \$1,788 - \$2,100). Miscellaneous expense should also be decreased for adjustments to pro forma expenses, as reflected in Issues 26 and 28.

---

<sup>24</sup> Order No. PSC-17-0091-FOF-SU, p. 62

**Issue 28:** What are the appropriate amounts of the Utility's pro forma expenses?

**Recommendation:** The appropriate amount of pro forma telephone expense is \$7,665. Accordingly, telephone expense should be decreased by \$4,982. The appropriate amount of pro forma insurance – general liability is \$17,633. All other pro forma expenses are discussed in Issues 18, 19, 20, 24, and 26. (Knoblauch, Swards)

**Position of the Parties**

**KWRU:** Operating and Maintenance: \$847,534; Depreciation Expense: \$173,636; Taxes other than Income Tax: \$135,954.

**OPC:** The previous adjustments addressed all adjustments to pro forma expenses.

**Monroe County:** The appropriate amounts of pro forma expenses are addressed within the foregoing issues addressing the individual O&M expense items. The increased expenses claimed by KWRU in its rebuttal testimony are not appropriate for recovery in this case because they should have been supported by KWRU in its case in chief.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU adopted and restated its argument in Issues 18 – 27 for Operating and Maintenance. (KWRU BR 25) For phone and internet, KWRU argued that no provider was completely reliable in the Florida Keys. (KWRU BR 25) For that reason, KWRU stated that redundancy was necessary to ensure the operation of the Utility's SCADA system. (KWRU BR 25) KWRU asserted that SCADA allows it to operate with fewer staff, thus reducing the employment costs. (KWRU BR 25) The Utility argued that costs for the internet phone service was minimal considering the reduced staffing that SCADA allows, and for that reason, the costs of the phone system should be deemed reasonable and prudent. (KWRU BR 25)

**OPC**

OPC stated in its brief that all pro forma expenses were previously addressed in prior issues. (OPC BR 34-35)

**Monroe County**

The County stated in its brief that all pro forma expenses were previously addressed in prior issues. (County BR 28) The County argued that expenses introduced by KWRU in rebuttal should not be considered in this case as the expenses were not supported. (County BR 28)

**ANALYSIS**

Staff notes that this issue solely addresses pro forma telephone expense and insurance – general liability expense adjustments. All other pro forma expenses are discussed in Issues 18, 19, 20, 24, and 26.

Date: July 26, 2018

### Telephone Expense

As discussed in Issue 4, KWRU witness Johnson testified that the Utility would be switching its primary service provider from Comcast to AT&T. While AT&T would be KWRU's primary provider, the Utility indicated through discovery that it would retain the service of Comcast for redundancy purposes. As previously stated in Issue 4, internet service is necessary for the operation of KWRU's SCADA system, which is needed for operation of the Utility's WWTP. Therefore, staff believes that redundancy of services is reasonable in the present case.

The fiber telephone system expense, as recorded in KWRU's original filing, was \$12,647 and reflected in miscellaneous expense. In his direct testimony, witness Johnson testified that the monthly cost for the AT&T phone service was \$1,054 per month. (TR 147-148) OPC witness Schultz testified that while he did not believe redundancy was necessary, he agreed that the \$12,647 expense was supported by the annualized monthly cost of the new phone service. (TR 597)

In rebuttal, KWRU witness Johnson testified to an updated expense for the phone system totaling \$13,340. These expenses included \$11,040 for annual service, \$1,340 for annual technical support, and \$960 for a plain old telephone service (POTS) line. (TR 907-908) In witness Schultz's surrebuttal testimony, he expressed concern that non-recurring costs, such as equipment costs, were incorporated into the updated phone system amount. Witness Schultz testified that without further clarification or support of the updated expenses, the witness's original recommendation of \$12,647 should remain unchanged. (TR 1075)

Staff reviewed the documentation included as an exhibit to witness Johnson's rebuttal testimony, and found that there was support for the annual technical support amount of \$1,340. Using the monthly rate of \$799 provided by AT&T, staff calculated the annual cost for service to be \$9,590. Witness Johnson did not include any documentation or support for the POTS line; therefore, staff has excluded this amount from the phone system expense. Including the annual service and technical support costs, staff recommends \$10,930 (\$9,590 + \$1,340) for the pro forma phone system expenses. As such, KWRU's pro forma request should be decreased by \$1,717 (\$12,647 - \$10,930).

At the technical hearing, KWRU witness Johnson indicated that once the AT&T phone and internet systems are in place, the Utility would only require redundancy for internet connectivity. (TR 922) Witness Johnson stated KWRU would disconnect phone service from Comcast, as it would no longer be needed. (TR 922) Staff reviewed the Comcast bills provided in discovery as well as the general ledger and calculated \$1,477 in costs associated with Comcast telephone expenses in the test year. (EXH 93, BSP 154; EXH 97, BSP 199) As such, staff recommends a reduction of \$1,477 to recognize the removal of the telephone service from Comcast on a going forward basis.

Additionally, KWRU witness Johnson explained that the Utility switched from AT&T to Comcast during the test year. (TR 1042) Using the general ledger, staff identified \$1,788 in costs associated with previous AT&T services. (EXH 93, BSP 154) As these costs will no longer be incurred, staff recommends a reduction of \$1,788 to recognize the removal of the previous AT&T system.

Date: July 26, 2018

**Insurance – General Liability**

In its filing, KWRU included a pro forma adjustment to increase insurance – general liability by \$17,633 for an adjusted test year balance of \$60,849. (EXH 2, P 31) Neither OPC nor the County disputed this adjustment. Staff reviewed the work papers supporting the MFRs provided by KWRU and believes the requested increase in insurance – general liability is reasonable. (EXH 94, BSP 161) As such, staff recommends that the pro forma increase of \$17,633 should be accepted.

**CONCLUSION**

Based on the above, staff recommends that the appropriate amount of pro forma telephone expense is \$7,665. Accordingly, telephone expense should be decreased by \$4,982. (- \$1,717 - \$1,477 - \$1,788). Staff also recommends that the appropriate amount of pro forma insurance – general liability is \$17,633.

Date: July 26, 2018

**Issue 29:** What is the appropriate amount of rate case expense, and over what period should such expense be recovered?

**Recommendation:** The appropriate amount of rate case expense is \$381,012. This expense should be amortized over four years for an annual expense of \$95,253. Based on the Utility's original MFR filing, the annual amortization of rate case expense should be increased by \$24,153. (Frank)

### **Position of the Parties**

**KWRU:** \$443,855, amortized over four years.

**OPC:** It is in the public interest to amortize rate case expense over five years. The Utility's revised expense of \$443,855 should be reduced by \$185,611, for a total rate case expense of \$258,244. This results in a net reduction to the original request of \$26,156.

**Monroe County:** The appropriate amount of rate case expense is \$258,244, which should be recovered over five years.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

In its brief, the Utility stated that actual rate case expense is \$443,855 and should be amortized over four years. (EXH 91, BSP 128; KWRU BR 26) KWRU argued that even though Mr. Friedman and Mr. Smith are with different law firms, there is no evidence of overlap in their work and is no different from multiple attorneys representing other parties in this case. (KWRU BR 26) Further, KWRU noted that each party had multiple attorneys working on this case. (KWRU BR 26) KWRU argued that there is no evidence for any longer amortization period and that a four-year default period is applicable. (KWRU BR 26)

### **OPC**

In its brief, OPC argued that KWRU's attorney Mr. Smith's hourly rate of \$420 is excessively high when compared to his outside counsel's hourly rate. (TR 621; OPC BR 35) OPC stated that limiting Mr. Smith's hourly rate to \$275 would result in an overall reduction of \$20,313 to actual and estimated legal fees. (OPC BR 35-36) OPC further argued that \$10,685 of rate case expense should be removed due to duplication of legal expenses between the two law firms representing KWRU. (OPC BR 36) OPC contended that the expense associated with KWRU's unsuccessful Motion to Strike OPC witness Shultz's testimony related to pensions and benefits should be disallowed resulting in a reduction of \$2,750. (OPC BR 36) OPC argued that KWRU failed to provide the required evidence to support \$141,963 of accounting fees and should therefore be removed. (OPC BR 37) Lastly, OPC argued that \$9,900 for estimated rate case expense for Mr. Seidman, the engineering consultant, should be removed because the estimate included time for the hearing which he did not attend. (OPC BR 37) Further, Mr. Seidman's testimony has been stipulated. (OPC BR 37) In total, OPC asserted that KWRU's revised request of \$443,855 for rate case expense should be reduced by \$185,611 for a total of \$258,244 and amortized over a

Date: July 26, 2018

five-year period. (OPC BR 37-38) OPC stated that a five-year amortization period is appropriate considering the burden on the customers in this case due to the fact that the Utility is requesting amortization of rate case expense for two rate cases, as well as amortization of the Last Stand legal fees from the prior rate case. (OPC BR 38)

### Monroe County

In its brief, the County stated it is in agreement with OPC and that the appropriate amount of rate case expense is \$258,244. (County BR 29) The County argued that this amount should be amortized over five years to minimize customer impacts. (County BR 29)

## ANALYSIS

In its updated filing, the Utility requested \$320,035 for current rate case expense and estimated an additional \$123,820 to complete the case, for a total of \$443,855. (EXH 91, BSP 128) However, KWRU provided support for additional rate case expense that was not embedded in this amount. In total, the Utility is requesting \$329,797 in actual fees and estimated an additional \$129,648 to complete the case, for a total of \$459,445. (EXH 82, BSP 8; EXH 91, BSP 128) A breakdown of the Utility's requested rate case expense is as follows.

**Table 29-1**  
**KWRU's Revised Rate Case Expense Request**

<b>Description</b>	<b>Actual Requested</b>	<b>Additional Estimated</b>	<b>Revised Total</b>
Friedman & Friedman, PA	\$17,282	\$26,399	\$43,681
Smith, Hawks, P.L.	153,190	25,963	179,153
Milian, Swain, & Associates	146,300	66,456	212,756
M&R Consultants	3,525	9,900	13,425
Filing Fee	4,500	0	0
Customer Notices, Printing, and Shipping	<u>5,000</u>	<u>930</u>	<u>5,930</u>
<b>Total</b>	<u>\$329,797</u>	<u>\$129,648</u>	<u>\$459,445</u>

Source: EXH 2 P 31; EXH 91, BSP 128

Pursuant to Section 367.081(7), F.S., the Commission shall determine the reasonableness of rate case expense and shall disallow all rate case expense determined to be unreasonable. Staff has examined the requested actual expenses, supporting documentation, and estimated expenses as listed above for the current rate case.

### Smith, Hawks, P.L.

KWRU witness Johnson provided documentation detailing rate case expense for Smith, Hawks P.L. through April 25, 2018. (EXH 91, BSP 128) The actual fees totaled \$153,190 with an estimated \$25,963 to complete the rate case, totaling \$179,153 (\$153,190 + \$25,963). (EXH 91, BSP 128) Costs for supplies and shipping expenses were included in this total amount.



Date: July 26, 2018

During review of Smith, Hawks' invoices, staff discovered the invoices provided totaled \$152,751. As such, staff reduced Smith, Hawks legal fees by \$439 (\$152,751 - \$153,190) to accurately reflect the supported amount of legal expense.

Staff reviewed the hourly rates of the attorneys representing KWRU and finds Mr. Smith's hourly rate of \$420 high when compared to the other attorneys. (EXH 91 BSP 128) KWRU's second primary counsel Mr. Friedman, who is further discussed below, charges an hourly rate of \$370. (EXH 91, BSP 128) OPC witness Shultz stated that Mr. Friedman's law firm, unlike Smith, Hawks, specializes in representing water and wastewater utilities in the State of Florida. (TR 621) Witness Shultz argued that Smith, Hawks law firm has much less experience before the Commission and it is not reasonable that its hourly charges should be higher. (TR 621) Given Mr. Friedman's years of experience as a utility regulatory attorney, staff believes Mr. Friedman's hourly rate of \$370 serves as a reliable benchmark for a reasonable hourly rate. Therefore, staff adjusted Mr. Smith's hourly rate of \$420 to \$370 an hour. This results in a reduction of \$6,983.

Smith, Hawks' last estimate to complete the rate case was dated as of April 25, 2018. (EXH 91, BSP 128) The estimate included fees related to pre-hearing statements, attending the final hearing, and reviewing staff recommendation for 72 hours. (EXH 91, BSP 128) Staff believes Smith, Hawks' estimate to complete is reasonable. Therefore, staff recommends no adjustments.

In summary, staff recommends reducing rate case expense by \$7,422 (\$439 + \$6,983).

#### **Friedman & Friedman, P.A. (F&F)**

In addition to Smith, Hawks, KWRU retained the law firm Friedman & Friedman (F&F) to assist in legal services. (EXH 2, P 31) KWRU witness Johnson provided documentation detailing rate case expense for F&F through April 17, 2018. (EXH 91, BSP 128) The actual fees totaled \$17,282 with an estimated \$26,399 to complete the rate case, totaling \$43,681 (\$17,282 + \$26,399). (EXH 91, BSP 128) Costs for supplies and shipping expenses were included in this total amount.

Given the voluminous nature of this rate case and that OPC, the County, and Commission staff each have more than one attorney representing them, staff believes it is reasonable to allow the Utility to retain two law firms in order to split the workload. (EXH 88, BSP 87) OPC witness Shultz stated that any charges for duplicative tasks should be removed. (TR 621) Staff was careful to review itemized invoices from both law firms in an effort to remove any duplicative legal fees for work that would reasonably require only one law firm's service. As such, staff made adjustments for specific work performed by F&F that appear duplicative to Smith, Hawks. Upon reviewing invoices between the two firms, staff believes that \$1,073 in fees related to reviewing documents are duplicative of Smith, Hawks and should be removed. (EXH 91, BSP 128)

F&F's last estimate to complete the rate case was submitted on and reflected costs incurred through April 17, 2018. (EXH 91, BSP 128) The estimate included fees for 65 hours at \$370 an hour and additional costs for photocopies and attending the Agenda Conference, totaling \$2,349. (EXH 91, BSP 128). Staff recommends no adjustments.

Date: July 26, 2018

### **Milian, Swain, & Associates (MSA)**

The Utility provided rate case expense, totaling \$212,756, for accounting services performed by Milian, Swain, & Associates (MSA). The actual fees and costs totaled \$146,300 with an estimated \$66,456 to complete the rate case. (EXH 82, BSP 8). Although staff requested supporting documentation for all rate case expense, KWRU did not provide invoices for accounting services performed during the months of May 2017 and December 2018 through March 2018. This results in \$55,038 of unsupported rate case expense. It is the Utility's burden to prove that its costs are reasonable. As such, staff recommends an adjustment to reduce MSA's actual accounting fees by \$55,038.

The Utility identified 7.5 hours related to correcting deficiencies. (EXH 82, BSP 8) The Commission has previously disallowed rate case expense associated with correcting MFR deficiencies because of duplicate filing costs. However, the Utility did not include these costs in their requested rate case expense. Therefore, no adjustments to remove deficiencies are necessary.

MSA's last estimate to complete the rate case was submitted on and reflected costs incurred through March 31, 2018. (EXH 91, BSP 128) The estimate included fees related to preparation of testimony, rebuttal testimony, and the hearing, totaling \$64,850. The estimate also included travel costs totaling \$1,606. (EXH 91, BSP 128). Staff recommends no adjustments.

### **M&R Consultants**

KWRU witness Johnson provided documentation detailing rate case expense for M&R Consultants through February 13, 2018. (EXH 91, BSP 112) The actual fees totaled \$3,525 with an estimated \$9,900 to complete the rate case, totaling \$13,425 (\$3,525 + \$9,900). The invoices included consulting services for preparation of engineering-related schedules, responses to staff's discovery, review of staff recommendations, and assistance and preparation of testimony. The actual fees totaled \$3,525. Staff recommends no adjustments to actual fees.

M&R's last estimate to complete the rate case was submitted on and reflected costs incurred through February 13, 2018. (EXH 91, BSP 128) The Utility initially estimated 46 hours to attend the hearing and \$1,595 in travel costs. The Utility subsequently updated M&R's estimate to complete to reflect fees related to reviewing testimony, prehearing statements, and post-hearing statements for 10 hours at \$150 an hour. (EXH 91, BSP 128) Because Mr. Seidman's testimony and attached exhibits were stipulated by all parties and therefore he did not attend the hearing, M&R's estimate to complete should be removed. (TR 11)

### **Filing Fee**

The Utility included \$4,500 in its MFR Schedule B-10 for the filing fee. (EXH 2, P 31). Staff recommends no adjustment.

### **Printing and Shipping**

KWRU included \$5,000 in its MFR Schedule B-10 for printing and shipping costs and an additional \$930 in estimated noticing costs to complete the rate case. (EXH 2, P 31; EXH 91, BSP 128; TR 253) As mentioned above, staff reviewed invoices from F&F and Smith, Hawks which contain costs for printing, shipping, and supplies. The Utility did not provide any additional invoices or receipts for printing and shipping expenses. Therefore, staff recommends

Date: July 26, 2018

removing the duplicative and unsupported \$5,000 for printing and shipping. KWRU witness Johnson stated that the Utility used previous mailing costs to estimate the additional \$930. (TR 253) Staff believes the additional estimate of \$930 for noticing costs is reasonable. (EXH 91, BSP 128; TR 253).

### CONCLUSION

Based upon the adjustments discussed above, staff recommends that KWRU's revised rate case expense of \$459,445 be decreased by \$83,613 to reflect staff's adjustments, for a total of \$381,012. A breakdown of staff's recommended rate case expense is as follows:

**Table 29-2**  
**Staff Recommended Rate Case Expense**

<b>Description</b>	<b>Utility Revised Act. &amp; Est.</b>	<b>Staff Adjustment</b>	<b>Recom. Total</b>
Legal Fees	\$222,834	(\$8,495)	\$214,338
Accounting Consultant Fees	212,756	(55,038)	157,719
Engineering Consultant Fees	13,425	(9,900)	3,525
Filing Fee	4,500	0	4,500
Printing and Shipping	5,930	(5,000)	930
<b>Total</b>	<u>\$459,445</u>	<u>(\$78,433)</u>	<u>\$381,012</u>

Source: EXH 91, BSP 128

In its briefs, OPC and the County stated that rate case expense should be amortized over a five-year period. However, staff believes the record does not support using a five-year amortization period. (OPC BR 38; County BR 29) As such, the recommended total rate case expense of \$381,012 should be amortized over four years, pursuant to Section 367.081(8), F.S. This represents an annual expense of \$95,253. As stated previously, in its updated filing, the Utility requested \$459,445 for current rate case expense, with an annual amortization amount of \$114,861. (EXH 17, P 8) Based on the Utility's original MFR filing, the annual amortization of rate case expense should be increased by \$24,153.

**Issue 30:** What, if any, further adjustments should be made to the Utility's O&M expense?

**Recommendation:** Adjustments should be made to advertising expense and contractual services – testing. Advertising expense should be reduced by \$4,775 to \$1,028, and contractual services – testing should be reduced by \$1,504 to \$18,429. (Sewards)

**Position of the Parties**

**KWRU:** None.

**OPC:** Advertising expense should be reduced by \$4,437.

**Monroe County:** Advertising expense should be reduced by \$4,437.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its brief, KWRU stated all Utility adjustments to O&M are discussed and contained within Issues 18 – 28. (KWRU BR 27)

**OPC**

In its brief, OPC asserted that KWRU's test year balance of advertising expense is a 400 percent increase over the test year utilized in the rate case. (TR 611; OPC BR 38) OPC claimed this inflated amount is not an accurate representation of advertising expense as the Utility is not planning for extreme turnover in future years. (TR 611; OPC BR 38) OPC contended as the Utility did not make an effort to provide a reasonable estimate for future advertising, its recommended adjustment to recognize a five-year average of advertising expense should be accepted. (OPC BR 39)

**Monroe County**

In its brief, the County agreed with OPC. (County BR 29)

**ANALYSIS**

**Advertising**

In its MFRs, KWRU presented a test year balance of \$5,803 for advertising expense. (EXH 2, P 31) OPC witness Schultz testified this is an increase of 400 percent over the amount of \$1,075 included in the test year of the prior rate case.<sup>25</sup> (TR 611) As noted by witness Schulz, the Utility stated in its MFRs that the increase of advertising expense was due to extreme turnover which resulted in an increase to the number of help wanted ads being posted. (EXH 2, P 32; TR 611) Witness Schultz continued that since the Utility is not planning on extreme turnover in future years, the increased level of advertising expense is unnecessary. (TR 611) OPC Witness Schultz stated that since the amount rose and fell over the previous years, a five-year average is appropriate to normalize advertising expense and presented a calculation demonstrating that the

---

<sup>25</sup> Order No. PSC-17-0091-FOF-SU, p. 47.

five-year average balance of advertising expense is \$1,366. (TR 612) KWRU stated it believed employee retention would be improved as a result of requested salaries and wages and pensions and benefits, as such, it expected some decrease to advertising expense. (EXH 89, BSP 106) Staff notes KWRU filled 11 positions for employees who resigned, retired, or were terminated in 2017. (EXH 37, P 12) Based on this information, staff agrees with OPC that the test year balance of \$5,803 is not representative of a typical year on a going forward basis.

KWRU witness Johnson asserted that employees may still leave or be terminated, and in situations such as these, the Utility would require advertising expense to quickly replace the employee. (TR 191-192) The Utility claimed that advertising expense would still be necessary to advertise for other things, such as noticing of permits or for signage. (TR 191) Staff reviewed the approved 2014 test year balance in the last rate case.<sup>26</sup> Additionally, staff reviewed the general ledgers for the calendar years 2015 through 2017. (EXH 93, BSP 154; EXH 95, BSP 176) Staff believes a three-year average based on 2014 to 2016 should be used. (EXH 93, BSP 154; EXH 95, BSP 176) In the past, the Commission has approved the use of a three-year average to reflect the appropriate expense level.<sup>27,28</sup>

Based on the above, staff believes a three-year average should be used to normalize these expenses. Staff recommends a reduction of \$4,775 to advertising expense based on a three-year average as detailed in Table 30-1 below.

**Table 30-1**  
**Advertising Expense – Three-Year Average**

<b>Year</b>	<b>Amount</b>
2014	\$1,076
2015	\$631
2016	\$1,376
Average	\$1,028
Test Year	<u>\$5,803</u>
Adjustment	<u>(\$4,775)</u>

Source: EXH 93, BSP 154; EXH 95, BSP 176

### **Contractual Services - Testing**

In its original filing, the Utility included a test year balance of \$19,933 for contractual services – testing. (EXH 2, P 31) Subsequently, KWRU decreased its test year balance by \$1,504 to \$18,429 to recognize an error in the originally filed MFRs. (EXH 54, P 8) Using the general

---

<sup>26</sup> *Id.*

<sup>27</sup> Order No. PSC-11-0010-SC-WU, issued January 3, 2011, in Docket No. 100104-WU, *In re: Application for increase in water rates in Franklin County by Water management Services, Inc.*

<sup>28</sup> Order No. 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.*

Date: July 26, 2018

ledger, staff verified KWRU's reduction of \$1,504 to correct this error is appropriate and should be made. (EXH 93, BSP 154)

### **CONCLUSION**

Based on the above, staff recommends adjustments should be made to advertising expense and contractual services – testing. Advertising expense should be reduced by \$4,775 to \$1,028, and contractual services – testing should be reduced by \$1,504 to \$18,429.

Date: July 26, 2018

**Issue 31:** What is the appropriate amount of O&M expense? (fall out)

**Recommendation:** Based upon staff's recommended adjustments in Issues 17 through 30, the appropriate amount of O&M expense is \$2,432,875. (Sewards)

**Position of the Parties**

**KWRU:** \$2,567,866.

**OPC:** The appropriate amount of O&M expense is \$2,092,581.

**Monroe County:** The appropriate amount of total O&M expense to be used in setting KWRU's rates is \$2,118,409, which includes adjustments per audit findings and adjustments recommended by the Citizens' witnesses, and which also includes an additional \$25,828 of Sludge Removal, Purchased Power, and Chemicals expenses that would be incurred to treat the additional 9.26 million gallons to be served as demonstrated by the County's Witness Kevin Wilson, P.E.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its brief, KWRU did not provide an argument for this issue. (KWRU BR 27)

**OPC**

The appropriate amount of O&M expense is \$2,092,581. (OPC BR 39)

**Monroe County**

In its brief, the County stated this is a fall out issue from the foregoing Issues 17-30. (County BR 29)

**ANALYSIS**

This is fall out issue. Based upon staff's recommended adjustments in Issues 17 through 30, the appropriate amount of O&M expense is \$2,432,875. Schedule No. 3-A reflects staff's recommended O&M expenses. Schedule No. 3-B reflects staff's proposed adjustments to O&M expense.

**Issue 32:** What is the appropriate amount of depreciation expense?

**Recommendation:** The appropriate amount of depreciation expense (net of CIAC) should be \$303,134. Accordingly, net depreciation expense should be decreased by \$33,349. (D. Andrews)

**Position of the Parties**

**KWRU:** \$317,795.

**OPC:** The appropriate amount of depreciation expense is \$251,816.

**Monroe County:** The appropriate amount of depreciation expense is \$251,816.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU argued that adjustments should be made to depreciation expense as a fall out of pro forma plant adjustments. (KWRU BR 25) KWRU witness Swain testified that corrections are needed to annualize and reclassify adjustments totaling a reduction of \$12,247 in depreciation expense. (TR 769-770) Witness Swain also testified that depreciation expense should be removed for the retirement of the generator in the amount of \$6,413. (TR 772-773) These adjustments result in an appropriate depreciation expense of \$317,795. (KWRU BR 27)

**OPC**

OPC argued that depreciation expense should be reduced by \$84,666 related to adjustments discussed in Issues 4 and 5. (OPC BR 39) These adjustments include reductions of \$35,175 related to pro forma plant items, \$43,078 to correct the Utility's annualization adjustment, and \$6,413 to reflect the retired generator. (OPC BR 39) These adjustments result in an adjusted depreciation expense of \$251,816. (OPC BR 39)

**Monroe County**

In its brief, the County agreed with OPC that the appropriate amount of depreciation expense is \$251,816. (County BR 30)

**ANALYSIS**

In KWRU's filing, the Utility reflected test year depreciation expense of \$501,932 along with adjustments to increase depreciation expense by \$185,311 in the test year and by \$170,057 as corresponding adjustments to its pro forma plant request. (EXH 2, P 29)

In its filing, KWRU reflected test year adjustments to annualize depreciation expense for plant added during the test year. (EXH 2, P 29) Similar to the discussion in Issue 5, OPC argued that this adjustment was incorrectly calculated and should be reduced by \$43,078. (TR 594) Consistent with staff's recommendation in Issue 5, staff recommends only making adjustments to depreciation expense that correspond to plant-in-service adjustments. As such, staff recommends decreasing depreciation by \$47,772 to reflect correct annualization and



Date: July 26, 2018

reclassification of the AWT plant expansion project. Staff also recommends reducing depreciation expense by \$9,468 to remove annualization adjustments for routine plant additions.

Additionally, the appropriate corresponding adjustment to depreciation expense of pro forma plant discussed in Issue 4 is a decrease of \$8,565 to reflect the pro forma plant projects, along with associated retirements. KWRU witness Swain testified that no adjustments should be made to depreciation expense for the retirements of the lift station and the chlorine contact chamber because these assets are already fully depreciated and there is therefore no depreciation expense in the MFRs for these assets. (TR 771-772) Neither OPC nor the County disputed this testimony. Staff reviewed the depreciation expense accounts and agrees with KWRU that there is no depreciation expense related to those assets included. Therefore, staff recommends no adjustments to depreciation expense for the retirements of the lift station and the chlorine contact chamber.

Applying the Used & Useful percentages set forth in Issue 8, staff calculated adjustments to increase net depreciation expense by \$32,457.

### **CONCLUSION**

Based on staff's recommended adjustments, the appropriate amount of net depreciation expense is \$303,134, which reflects a decrease of \$33,349 ( $-\$8,565 - \$9,468 - \$47,772 + \$32,457$ ).

Date: July 26, 2018

**Issue 33:** What is the appropriate amount of Taxes Other Than Income?

**Recommendation:** The appropriate amount of Taxes Other Than Income (TOTI) should be \$299,822. Accordingly, TOTI should be increased by \$11,903. (D. Andrews)

**Position of the Parties**

**KWRU:** This is a fallout calculation, and the appropriate amount is \$311,467.

**OPC:** This is a fall-out issue. Based on the amounts included in the prior issues, taxes other than income expense should be \$221,979.

**Monroe County:** The appropriate amount of Taxes Other Than Income Taxes is \$221,979.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU stated that TOTI is a fall out calculation, and the appropriate amount is \$311,467. (KW BR 27)

**OPC**

OPC stated that TOTI is a fall out issue, and the appropriate amount is \$221,979. (OPC BR 39)

**Monroe County**

The County agreed with OPC that the appropriate amount of TOTI is \$221,979. (County BR 30)

**ANALYSIS**

This is a fall out issue. Based on staff's adjustments to test year revenues, RAFs should be reduced by \$59,517. To reflect staff's recommended adjustments to pro forma plant, property taxes should be reduced by \$458. To reflect staff's recommended adjustment to pro forma salaries, payroll taxes should be reduced by \$2,488. To reflect staff's recommended Non-used and Useful adjustment, property taxes should be increased by \$22,954. Lastly, to reflect staff's recommended revenue increase, RAFs should be increased by \$51,412. In total, TOTI should be increased by \$11,903 ( $-\$59,517 - \$458 - \$2,488 + \$22,954 + \$51,412$ ) for an adjusted total of \$299,822.

**CONCLUSION**

Based on staff's recommended adjustments, TOTI should be decreased by \$11,903. The appropriate amount of TOTI is \$299,822.

**Issue 34:** What is the appropriate revenue requirement? (fall out)

**Recommendation:** The appropriate revenue requirement is \$3,502,098. (Sewards)

**Position of the Parties**

**KWRU:** \$3,682,216.

**OPC:** The appropriate revenue requirement should be based on adjustments to the Utility's originally filed direct case, and not the increases requested in rebuttal. KWRU increased its requested revenue requirement from \$3.6 million to \$3.7 million in rebuttal. Based on the MFRs and testimony that KWRU filed in direct and adjustments made in other issues, the appropriate revenue requirement is \$3,028,482.

**Monroe County:** The appropriate revenue requirement is \$3,054,310, including an increase of \$540,714.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

In its brief, KWRU stated the actual revenues should be \$3,761,710; however, because the initially filed MFRs provided revenues of \$3,682,216, the Utility agreed its revenue requirement should be limited to this amount. (KWRU BR 28) KWRU argued if adjustments were necessary, they should be made using \$3,761,710 as the starting point. (KWRU BR 28)

**OPC**

In its brief, OPC asserted the Utility agreed the rate case should be based on KWRU's direct case, not including increases identified in rebuttal. (OPC BR 39-40) OPC stated the Commission can rely upon the Utility's direct case, OPC and the County testimony and exhibits, stipulated staff hearing exhibits, and evidence tested by parties through cross-examination of witnesses. (OPC BR 40) However, OPC continued, the Commission should not rely upon staff's non-stipulated exhibits that were not tested through cross examination by staff. (OPC BR 40) OPC stated it would be improper for the Commission to rely on evidence introduced by staff that was not properly tested through cross examination. (OPC BR 40) OPC claimed staff did not properly test the validity, credibility, or competence of evidence, and timely objected to "superfluous discovery responses" being moved into the record. (OPC BR 40)

**Monroe County**

In its brief, the County recommended that the Commission grant KWRU a total revenue requirement of \$3,054,310, based on OPC's positions on most issues, plus an additional allowance for sludge removal, chemicals, and purchased power expenses, as recommended by the County. (County BR 31)

Date: July 26, 2018

**ANALYSIS**

This is a fall out issue. In its filing, KWRU requested a revenue requirement to generate annual revenue of \$3,682,216, representing a revenue increase of \$1,551,910, or approximately 72.8 percent. Consistent with staff's recommendations regarding rate base, cost of capital, and operating income issues, the appropriate revenue requirement is \$3,502,098. Staff's recommended revenue requirement is \$1,142,487 greater than recommended test year revenues of \$2,359,611 or an increase of 48.42 percent. Staff's recommended revenue requirement will allow the Utility the opportunity to recover its expenses and earn a 7.67 percent return on its investment in rate base. Schedule No. 3-A reflects staff's recommended net operating income, and resulting revenue requirement. Staff's proposed adjustments to net operating income are shown on Schedule No. 3-B.

Date: July 26, 2018

**Issue 35:** What are the appropriate adjustments, if any, to test year billing determinants for setting final rates and charges?

**Recommendation:** There should be no adjustments to test year billing determinants for setting final rates and charges. (Friedrich)

***Position of the Parties***

**KWRU:** No further adjustments to the billing determinants shown in KWRU Position to Issue 15.

**OPC:** The test year billing determinants should be increased by 1,386 ERC's and 9.26 million gallons consistent with the matching principle.

**Monroe County:** The appropriate number of bills includes an increase of 864 bills, yielding a total of 22,601 bills for wastewater service. The appropriate number of Gallons of wastewater service is 226,429,000 Gallons, including an increase of 9,260,000 Gallons. The appropriate number of Gallons of Reuse Service is at least 37,253,000 Gallons, including an adjustment of at least 9,549,000 gallons.

***Staff Analysis:***

**PARTIES' ARGUMENTS**

**KWRU**

The Utility asserted that there are no further adjustments needed and argued these merits in Issue 15. (KWRU BR 28)

**OPC**

OPC argued that test year billing determinants should be increased by 1,398 ERCs and 9.26 million gallons based on County witness Wilson's testimony that there will be additional customers connecting to KWRU's wastewater system by the time the rates generated from this proceeding are implemented. Additionally, OPC supported County witness Small's testimony exhibit which converted customers to ERCs and consumption. (OPC BR 41)

**Monroe County**

The County argued that billing determinants should be increased by 864 bills, 9.26 million gallons, and at least 9.549 million reuse gallons. (County BR 32) The County's argument in support of its recommended adjustments to billing determinants is discussed further in Issue 15.

**ANALYSIS**

Based on the arguments provided in Issue 15, staff does not recommend any adjustments to billing determinants for determining test year revenues or for setting final rates and charges. Staff agrees with KWRU witnesses Johnson and Swain that KWRU's requested pro forma projects are not growth related nor is there extraordinary growth. (TR 1042; TR 790) Staff agrees with the Utility that the additional billing determinants provided by the County and OPC were

Date: July 26, 2018

not accompanied by their matching expenses; therefore, imputing additional billing determinants consistent with the County and OPC's request would violate the matching principle. (TR 796-797) While staff agrees that including additional billing determinants may mitigate the overall rate impact to customers, the evidence in the record does not support making that adjustment in this case. (EXH 129; TR 529; TR 791)

### **CONCLUSION**

There should be no adjustments to test year billing determinants for setting final rates and charges.

**Issue 36:** What are the appropriate rate structure and rates for wastewater service?

**Recommendation:** The appropriate rate structure and rates for wastewater service are shown on Schedule No. 4. The Utility should file revised tariff sheets and a proposed customer notice to reflect Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets 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 customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Friedrich)

**Position of the Parties**

**KWRU:** The appropriate rate structure and rates are as filed in the MFRs, as follows:

Line No	(1) Class/Meter Size	(2) Rates Effective 7/2016	(3) Rates Effective 4/2017	(4) Final Rates
1	<b><u>Residential Service</u></b>			
2				
3	BCF All Meter Sizes	\$31.66	\$31.86	\$50.74
4	Gallage Charge per 1,000 gallons (10,000 gallon cap)	\$5.25	\$5.28	\$8.41
5				
6				
7	<b><u>General Service</u></b>	\$31.66	\$31.86	\$50.74
8	5/8" x 3/4 "	\$79.15	\$79.65	\$126.84
9	1"	\$158.30	\$159.30	\$253.69
10	1.5"	\$253.28	\$254.88	\$405.90
11	2"	\$506.56	\$509.76	\$811.79
12	3"	\$791.50	\$796.50	\$1,268.43
13	4"	\$1,583.00	\$1,593.00	\$2,536.85
14	6"	\$2,532.80	\$2,548.80	\$4,058.96
15	8"	\$2,849.40	\$2,867.40	\$4,566.33
16	8" Turbo			
17				
18	Gallage Charge per 1,000 gallons	\$6.30	\$6.33	\$10.08
19				
20	<b><u>Harbor Shores</u></b>		\$2,198.34	\$3,500.86
21	Base Facility Charge			
22				
23	Gallage Charge per 1,000 gallons		\$5.28	\$8.41
24	690,000 gallon cap			
25				
26	<b><u>Private Lift Station Owners</u></b>	\$25.33	\$25.49	\$40.59
27	5/8" x 3/4 "	\$63.32	\$63.72	\$101.47
28	1"	\$126.64	\$127.44	\$202.95
29	1.5"	\$202.62	\$203.90	\$324.71
30	2"	\$405.25	\$407.81	\$649.44

Date: July 26, 2018

31	3"	\$633.20	\$637.20	\$1,014.74
32	4"	\$1,266.40	\$1,274.40	\$2,029.48
33	6"	\$2,026.24	\$2,039.04	\$3,247.17
34	8"			
35				
36	Gallage Charge per 1,000 gallons	\$6.30	\$6.33	\$10.08
37				
38	<b><u>Reuse Service</u></b>			
39	Gallage Charge per 1,000 gallons	\$0.93	\$1.34	\$2.13

Exhibit 2

**OPC:** No position except the Commission should apply the matching principle.

**Monroe County:** The appropriate rate structure and rates are those that are based on (1) the BFCs and Gallons supported by the County's witnesses, (2) a 40% BFC – 60% Gallage charge structure, and (3) with residential gallons capped per standard Commission practice.

***Staff Analysis:***

**PARTIES' ARGUMENTS**

**KWRU**

KWRU proposed final rates reflecting an across the board increase to its existing rates.(KWRU BR 28-29)

**OPC**

OPC argued that the Commission should utilize the matching principle when setting the Utility's rates and rate structure. (OPC BR 41)

**Monroe County**

The County argued that an appropriate rate structure for KWRU should include a BFC and gallage charges based on the amount of wastewater service provided. Additionally, the County stated that the rate structure approved in KWRU's last rate case which allocated 40 percent of revenues to the BFC and capped residential service at 10,000 gallons is appropriate. (County BR 32)

The County asserted that miscellaneous and reuse revenues should be removed from the Commission-approved revenue requirement using the number of bills that will be rendered and gallons that will be treated and charged for during the first 12 months that the new rates will be in effect to set final rates. (County BR 33) The County provided an attached Exhibit within its brief in support of its proposed rates shown on Table 1 on page 34. (County BR 44)

**ANALYSIS**

The Commission has jurisdiction to set rates that are just, reasonable, compensatory, and not unfairly discriminatory, considering the value, quality, and cost of the service pursuant to Section



367.081(2)(a)1, F.S. It is Commission practice to design wastewater rates which consist of a base facility charge (BFC) and gallonage charge for residential customers. For general service customers, the rate structure typically consists of a BFC based on meter size and a gallonage charge 1.2 times the corresponding residential gallonage charge.<sup>29</sup>

KWRU currently has Commission-approved rates for residential service, general service, Harbor Shores, customers with private lift stations, and reuse service. KWRU proposed an across-the-board increase to its existing rates which is consistent with the County's position to allocate approximately 40 percent of revenues to the BFC and to maintain a 10,000 gallon residential cap.<sup>30</sup> (EXH 2 P 48) While staff agrees with the County that miscellaneous revenues associated with miscellaneous service, late payment, and MCDC lift station cleaning charges should be removed from the overall revenue requirement to design rates, staff did not remove reuse revenues because, as described in Issue 37, staff recommends that KWRU's existing reuse rate should receive the same overall percent increase as the Utility's monthly service rates. Based on staff's recommended charges in Issues 38 (miscellaneous service charges), 39 (late payment charge), and 40 (MCDC lift station cleaning charge), the appropriate amount of miscellaneous revenues to remove to determine the overall percent increase is \$81,314. Therefore, staff recommends KWRU's existing monthly service be increased by 49.97 percent. Staff's calculation is shown in Table 36-1.

**Table 36-1**  
**Percentage Service Rate Increase**

1. Total Test Year Revenues	\$2,359,611
2. Less: Test Year Miscellaneous Revenues	\$78,700
3. Test Year Revenues from Service Rates	\$2,280,911
4. Revenue Increase	\$1,142,487
5. Less: Incremental Increase in Miscellaneous Revenues	\$2,614
6. Adjusted Revenue Increase	\$1,139,873
7. Percentage Service Rate Increase (Line 6 / Line 3)	49.97%

## **CONCLUSION**

The appropriate rate structure and rates for wastewater service are shown on Schedule No. 4. The Utility should file revised tariff sheets and a proposed customer notice to reflect Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets 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

<sup>29</sup>Order Nos. PSC-12-0102-FOF-WS, issued March 5, 2012, in Docket No. 100330-WS, *In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties* by Aqua Utilities Florida, Inc.; PSC-15-0233-PAA-WS, issued June 3, 2015 in Docket No. 140060-WS, *In re: Application for increase in water and wastewater rates in Seminole County* by Sanlando Utilities Corporation.

<sup>30</sup>Order No. PSC-17-0091-FOF-SU, issued March 13, 2017, in Docket No. 150071-SU, *In re: Application for increase in wastewater rates in Monroe County* by K W Resort Utilities Corp.

Date: July 26, 2018

and the notice has been received by customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Date: July 26, 2018

**Issue 37:** What is the appropriate rate for KWRU's reuse service?

**Recommendation:** The appropriate rate for KWRU's reuse service is \$2.01 per 1,000 gallons. 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, 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. (Friedrich)

### **Position of the Parties**

**KWRU:** The reuse service, as well as the residential and general service base rate and gallonage rates, are all increased on a percentage basis based on the increase in the general revenue requirement determined by the Public Service Commission. The current fallout calculation is \$2.18 per 1,000 gallons.

**OPC:** The appropriate reuse rate should be cost based. Estimated reuse revenues should be taken into account to reduce the service revenues to be recovered through residential and general service rates.

**Monroe County:** The appropriate rate for KWRU's Reuse Service is \$2.60 per 1,000 gallons.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

KWRU's proposed reuse rate was calculated by applying the requested percent increase to its existing reuse rate. In its brief, KWRU pointed out that the County argued that the appropriate reuse rate should be greater than the Utility's requested reuse rate. KWRU argued that there is no evidence that FKAA's reuse rate is appropriate or results in additional use of reuse. (KWRU BR 30) KWRU further argued that an increase in the reuse rate may result in less reuse being utilized by customers. The Utility contends that if reuse usage declines significantly, additional disposal capacity may be needed. (KWRU BR 30)

### **OPC**

OPC contended the appropriate reuse rate should be cost based. (OPC BR 41) Additionally, when designing rates, reuse revenues should be removed from service revenues.

### **Monroe County**

The County argued that reuse rates are determined by the cost of alternative supplies of water for irrigation and can be impacted by a utility's cost to dispose of treated wastewater. (County BR 35) Additionally, the County contends that KWRU did not present a cost of service analysis for its reuse service. (County BR 35) The County agreed with Witness Swain that higher reuse rates would mitigate the rate impact to the general body of rate payers. (County BR 35) The County

Date: July 26, 2018

recommended that the Commission implement a reuse rate that is halfway between KWRU's proposed rate and the lowest FCAA rate for reuse service. (County BR 35-36)

### ANALYSIS

Commission practice with respect to setting reuse rates does not include a cost based justification. Instead, the charge is typically set to reflect that sales of reuse as a lower cost alternative disposal method than percolation ponds or deep well injections.<sup>31</sup> (EXH 87 BSP 53) Reuse rates typically reflect a comparison of reuse rates of surrounding utilities.<sup>32</sup> Revenues from sales of reuse are used to mitigate the impact of any rate increase to the general body of ratepayers. (TR 103-105)

Currently, the Utility provides reuse service to the Key West Golf Club, the Monroe County Detention Center, and Monroe County's Bernstein Park and has a reuse rate of \$1.34 per 1,000 gallons. (EXH 87, BSP 50) KWRU indicated that reuse-quality water not used by these three customers is diverted to Class V underground injection wells. (EXH 87, BSP 53) There are seven wastewater treatment facilities in Monroe County permitted to provide reuse; only two of those systems have reuse rates and both facilities are owned and operated by FCAA. (EXH 87, BSP 51-52) FCAA's reuse rates are based on 50 percent of its potable water rates (\$3.03 to \$6.07 per 1,000 gallons) (EXH 87, BSP 52; EXH 111)

Staff agrees with the Utility's methodology of applying a proportionate increase, consistent with the overall revenue increase, to the existing reuse rate; a cost justification analysis is not needed. (EXH 87, BSP 51) Therefore, based on the overall revenue increase of approximately 49.97 percent, the appropriate reuse rate for KWRU is \$2.01 per 1,000 gallons. Staff believes its recommended reuse rate of \$2.01 will achieve an appropriate balance between the reuse supply of the Utility and demands of its customers while maintaining Commission practice with respect to setting reuse rates.

### CONCLUSION

The appropriate rate for KWRU's reuse service is \$2.01 per 1,000 gallons. 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, 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.

---

<sup>31</sup>Order No. PSC-15-0233-PAA-WS, issued June 3, 2015, in Docket No. 20140060-WS, In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation.

<sup>32</sup>Order Nos. PSC-15-0233-PAA-WS, issued June 3, 2015, in Docket No. 140060-WS, *In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation*; PSC-09-0393-TRF-SU, issued June 2, 2009, *In re: Application for approval of new class of service for reuse water service in Martin County by Indiantown Company, Inc.*; PSC-09-0651-PAA-SU, issued September 28, 2009, in Docket No. 090121-SU, *In re: Application for limited proceeding rate increase in Seminole County by Alafaya Utilities, Inc.*

**Issue 38:** What are the appropriate miscellaneous service charges?

**Recommendation:** Staff recommends the miscellaneous service charges shown in Table 38-1 be approved for KWRU. The approved charges should be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. KWRU should provide proof of the date notice was given within 10 days of the date of the notice. (Friedrich)

**Position of the Parties**

**KWRU:** KWRU contends this matter is not at issue as no one contested Swain's MFRs on this issue. Notwithstanding the foregoing, the appropriate miscellaneous service charges are based on a cost of living increase pursuant to the Public Service Commission Price Index (EXH 118) since the last rate case (2015 - 1.57%, 2016 - 1.29%, 2017 - 1.51%), and are as follows:

	<u>Bus. Hrs.</u>	<u>After Hrs.</u>
Initial Connection Fee	\$ 62.14	\$ 68.72
Normal Reconnection Fee	\$ 68.72	\$ 79.47
Violation Reconnection Fee	Actual Cost	Actual Cost
Premises Visit Fee (in lieu of disconnection)	\$ 47.73	\$ 54.31
Bad Check Charge	Pursuant to 68.065 (2), Florida Statutes	

**OPC:** No increase should be granted as the Utility has not provided cost justification as required by Section 367.091(6), F.S., which states that an "application to establish, increase, or change a rate or charge other than the monthly rates for service pursuant to s. 367.081 or service availability charges pursuant to s. 367.101 must be accompanied by a cost justification."

**Monroe County:** The appropriate Miscellaneous Service Charges are those currently in effect. KWRU failed to proffer any testimony on this issue and failed to provide the cost justification required by Section 367.091(6), Florida Statutes, and accordingly, the Commission should order that KWRU can charge only the Miscellaneous Service Charge rates currently in effect.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU witness Swain supported the Utility's proposed incremental increase to its current miscellaneous service charges based on a price index adjustment methodology. KWRU argued that no additional testimony was proffered contesting this methodology by the other intervenors. (KWRU BR 30)

Date: July 26, 2018

### OPC

OPC argued that the Utility's requested increase is not appropriate since it is not cost based. OPC does not believe KWRU has provided the necessary cost justification pursuant to Section 367.091(6), F.S. (OPC BR 42)

### Monroe County

The County contends that KWRU's current miscellaneous service charges should remain the same because KWRU failed to justify its proposed increases. (County BR 36-37) Additionally, the County does not believe that KWRU's request to apply a percentage increase based on three years of inflation is appropriate because the Utility's current miscellaneous service charges were implemented less than three years ago in April of 2017. (County BR 38) Further, the County disputed the applicability of Rule 25-30.420(1)(a), F.A.C., to miscellaneous service charges.

### ANALYSIS

The Commission is authorized to establish, increase, or change a rate or charge other than monthly rates or service availability charges, such as miscellaneous service charges, pursuant to Section 367.091, F.S. Miscellaneous service charges are defined as initial connection, normal reconnection, violation reconnection, and premises visit charges according to Rule 25-30.460, F.A.C. It is Commission practice to evaluate miscellaneous service charges based on cost components associated with hourly salaries of field and administrative employees that facilitate miscellaneous services and other associated costs.<sup>33</sup>

The Utility's current miscellaneous service charges were approved during its last rate case and are shown on Table 38-1.<sup>34</sup> In this proceeding, the Utility requested that the Commission evaluate its miscellaneous service charges based on the cost justification containing the components, such as, hourly salaries of field and administrative employees and other costs associated with miscellaneous service charges that were presented in KWRU's last rate case recognizing the cost increases since 2014 (the test year of the prior rate case). KWRU relied on the Commission-approved index percentages for 2015, 2016, and 2017 to adjust its existing miscellaneous service charges to reflect its current costs of administering miscellaneous services.<sup>35</sup> (EXH 2, BSP 47; EXH 88, BSP 98; EXH 113)

---

<sup>33</sup>Order Nos. PSC-2018-0334-PAA-WU, issued June 28, 2018, in Docket No. 20170155-WU, *In re: Application for grandfather water certificate in Leon County and application for pass through increase of regulatory assessment fees, by Seminole Waterworks, Inc.*; PSC-2017-0491-TRF-WS, issued December 28, 2017, in Docket No. 20170244-WS, *In re: Request for approval of amendment to tariff for miscellaneous service charges in Lake County by Lakeside Waterworks, Inc.*

<sup>34</sup>Order No. PSC-17-0091-FOF-SU, issued March 13, 2017, in Docket No. 150071-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.*

<sup>35</sup>Order Nos. PSC-15-0566-PAA-WS, issued December 15, 2015, in Docket No. 150005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*; PSC-15-0072-PAA-WS, issued January 27, 2015, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*; PSC-16-0552-PAA-WS, issued December 12, 2016, in Docket No. 160005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*

Date: July 26, 2018

Further, KWRU's miscellaneous service charge request is consistent with Order No. PSC-2007-0088-PAA-WS, in which the Commission approved an increase to Utilities, Inc. of Pennbrooke's miscellaneous service charges using a price index methodology to account for a 16 year span where the charges were not updated to reflect current costs.<sup>36</sup> The order additionally points out the following:

Currently, miscellaneous service charges may be indexed if requested in price index applications pursuant to Rule 25-30.420, F.A.C. However, few utilities request that their miscellaneous service charges be indexed. We applied the approved price indices from 1990 through 2005 to Pennbrooke's \$15 miscellaneous service charge and the result was a charge of \$21.00. Therefore, a \$21 charge is reasonable and is cost based.

Staff does not agree with OPC and the County that the Utility did not provide the necessary cost justification pursuant to Section 367.091(6), F.S. For miscellaneous service charges, KWRU's cost justification is consistent with Section 367.091(6), F.S., because it reflects the cost components traditionally relied on to support miscellaneous service charges. The Utility's current miscellaneous service charges were based on costs included in the 2014 test year for its last rate case. KWRU requested an increase of 4.4 percent for all of its miscellaneous service charges to reflect cost increases for 2015 through 2017. The record reflects that the Utility's labor and administrative costs associated with miscellaneous services have increased in excess of 4.4 percent. (EXH 98) Therefore, staff believes the Utility's request is reasonable. Based on KWRU's cost justification, staff recommends that KWRU's requested miscellaneous service charges are reasonable and should be approved. These charges are shown in Table 38-1.

**Table 38-1**  
**Miscellaneous Service Charges**

Description	Current		Requested	
	Normal Hours	After Hours	Normal Hours	After Hours
Initial Connection Charge	\$59.50	\$65.80	\$62.14	\$68.72
Normal Reconnection Charge	\$65.80	\$76.10	\$68.72	\$79.47
Violation Reconnection Charge	Actual Cost		Actual Cost	
Premises Visit Charge	\$45.70	\$52.00	\$47.73	\$54.31

Source: EXH 2, P 50

## CONCLUSION

Staff recommends the miscellaneous service charges shown in Table 38-1 be approved for KWRU. The approved charges should be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been

<sup>36</sup>Order No. PSC-2007-0088-PAA-WS, issued January 31, 2007, in Docket No. 20060261-WS, *In re: Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke*.

Date: July 26, 2018

received by the customers. KWRU should provide proof of the date notice was given within 10 days of the date of the notice.



Date: July 26, 2018

**Issue 39:** What is the appropriate late payment charge?

**Recommendation:** The appropriate late payment charge for KWRU is \$7.47. The approved charge should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475 F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. KWRU should provide proof of the date notice was given within 10 days of the date of the notice. (Friedrich)

### **Position of the Parties**

**KWRU:** KWRU contends this matter is not at issue as no one contested Swain's MFRs on this issue. Notwithstanding the foregoing, the appropriate late payment charge is based on a cost of living increase pursuant to the Public Service Commission Price Index since the last rate case (2015 - 1.57%, 2016 - 1.29%, 2017 - 1.51%), \$7.47.

**OPC:** No increase should be granted as the Utility has not provided cost justification as required by Section 367.091(6), F.S., which states that an "application to establish, increase, or change a rate or charge other than the monthly rates for service pursuant to s. 367.081 or service availability charges pursuant to s. 367.101 must be accompanied by a cost justification."

**Monroe County:** The appropriate late payment charge is the current charge of \$7.15. KWRU failed to proffer any testimony on this issue and failed to provide the cost justification required by Section 367.091(6), Florida Statutes, and accordingly, the Commission should order that KWRU can charge only the Late Payment Charge currently in effect.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

Witness Swain argued that KWRU's request to apply a price index methodology to the Utility's current late payment charge is appropriate. KWRU also argued that no testimony was proffered contesting this methodology. (KWRU BR 31)

### **OPC**

OPC does not believe the Utility's request to increase this charge is appropriate because cost justification, pursuant to Section 367.091(6), F.S., was not provided by KWRU. (OPC BR 42)

### **Monroe County**

The County argued that KWRU's current late payment charge should remain unchanged because the Utility did not provide adequate support or cost justification pursuant to Section 367.091(6), F.S. (County BR 40)

Date: July 26, 2018

## ANALYSIS

The Commission is authorized to establish, increase, or change late payment charges pursuant to Section 367.091, F.S. KWRU's current late payment charge of \$7.15, which was established in the Utility's last rate case, is designed to allow the Utility to recover costs associated with processing delinquent bills.<sup>37</sup> KWRU is requesting to apply a price index methodology, consistent with its requested increase for its miscellaneous service charges (Issue 38) and lift station cleaning charge (Issue 40), as justification for its requested late payment charge.

Consistent with staff's recommendation in Issue 38, staff does not agree with OPC and the County that the Utility did not provide the necessary cost justification pursuant to Section 367.091(6), F.S.

Staff agrees with KWRU's request to increase its late payment charge based on an increase consistent with the price index percentages approved by the Commission for 2015, 2016, and 2017.<sup>38</sup> As discussed in Issue 38, the Utility's request to apply a price index methodology is consistent with the methodology used in Order No. PSC-2007-0088-PAA-WS.<sup>39</sup> Witness Swain testified that in the Utility's last rate case, KWRU's requested late payment charge, which was accompanied by its cost justification, was not approved by the Commission. Witness Swain argued that it would not be appropriate for the Utility to provide an additional cost analysis requesting a late payment charge in the current proceeding because it would produce higher charges than what was approved by the Commission in the last rate case. (TR 123-124) As a result, KWRU used its Commission-approved late payment charge of \$7.15 and applied the compounded Commission approved index percentages for 2015, 2016, and 2017 in order to determine its requested late payment charge of \$7.47. (TR 122) Staff agrees with the arguments set forth by the Utility that an incremental increase to its late payment charge using a price index methodology is reasonable and should be approved. (TR 123-124; EXH 112)

## CONCLUSION

The appropriate late payment charge for KWRU is \$7.47. The approved charge should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475 F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. KWRU should provide proof of the date notice was given within 10 days of the date of the notice.

---

<sup>37</sup>Order No. PSC-17-0091-FOF-SU, issued March 13, 2017, in Docket No. 150071-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.*

<sup>38</sup>Order Nos. PSC-15-0566-PAA-WS, issued December 15, 2015, in Docket No. 150005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*; PSC-15-0072-PAA-WS, issued January 27, 2015, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*; PSC-16-0552-PAA-WS, issued December 12, 2016, in Docket No. 160005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*

<sup>39</sup>Order No. PSC-2007-0088-PAA-WS, issued January 31, 2007, in Docket No. 20060261-WS, *In re: Application for increase in water and wastewater rates in Lake County by Utilities, Inc. of Pennbrooke.*

Date: July 26, 2018

**Issue 40:** What is the appropriate Lift Station Cleaning charge?

**Recommendation:** The appropriate lift station cleaning charge for KWRU is \$1,526.82. The approved charge should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. KWRU should provide proof of the date notice was given within 10 days of the date of the notice. (Friedrich)

### **Position of the Parties**

**KWRU:** As no testimony has been proffered with regard to the appropriate lift station cleaning charge, KWRU contends this matter is not at issue. Notwithstanding the foregoing, the appropriate charge is based on a cost of living increase pursuant to the Public Service Commission Price Index since the last rate case (2015 - 1.57%, 2016 - 1.29%, 2017 - 1.51%), for an appropriate charge of \$1,526.82.

**OPC:** No increase should be granted as the Utility has not provided cost justification as required by Section 367.091(6), F.S., which states that an “application to establish, increase, or change a rate or charge other than the monthly rates for service pursuant to s. 367.081 or service availability charges pursuant to s. 367.101 must be accompanied by a cost justification.”

**Monroe County:** The appropriate Lift Station Cleaning Charge is the current charge of \$1,462.00 per month. KWRU failed to proffer any testimony on this issue and failed to provide the cost justification required by Section 367.091(6), Florida Statutes, and accordingly, the Commission should order that KWRU can charge only the Lift Station Cleaning Charge that is currently in effect.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

Witness Swain defended KWRU's request to apply a price index methodology to the Utility's current lift station cleaning charge is appropriate. KWRU also argued that no testimony was proffered contesting this methodology. (KWRU BR 31)

### **OPC**

OPC does not believe the Utility's request to increase this charge is appropriate because cost justification, pursuant to Section 367.091(6), F.S., was not provided by KWRU. (OPC BR 42)

### **Monroe County**

The County argued that KWRU's current lift station cleaning charge should remain unchanged because the Utility did not provide adequate support or cost justification pursuant to Section 367.091(6), F.S. (County BR 40)

## ANALYSIS

KWRU's current lift station cleaning charge of \$1,461.52 was established in its last rate case and was designed to allow the Utility to recover the costs associated with cleaning the MCDC lift station in its last rate case.<sup>40</sup> KWRU proposed applying a price index methodology consistent with its request for its miscellaneous service charges (Issue 38) and late payment charge (Issue 39) to reflect the associated increase in costs since the last rate case.

Consistent with Issues 38 and 39, staff agrees with KWRU that the Utility's current lift station cleaning charge should be updated consistent with the price index percentages approved by the Commission.<sup>41</sup> Additionally, consistent with staff's recommendations in Issues 38 and 39, staff does not agree with OPC and the County that the Utility did not provide the necessary cost justification pursuant to Section 367.091(6), F.S.

## CONCLUSION

The appropriate lift station cleaning charge for KWRU is \$1,526.82. The approved charge should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C. In addition, the approved charges should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. KWRU should provide proof of the date notice was given within 10 days of the date of the notice.

---

<sup>40</sup>Order No. PSC-17-0091-FOF-SU, issued March 13, 2017, in Docket No. 150071-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.*

<sup>41</sup>Order Nos. PSC-15-0566-PAA-WS, issued December 15, 2015, in Docket No. 150005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*; PSC-15-0072-PAA-WS, issued January 27, 2015, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*; PSC-16-0552-PAA-WS, issued December 12, 2016, in Docket No. 160005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*

**Issue 41:** What are the appropriate initial customer deposits?

**Recommendation:** The appropriate initial customer deposit should be \$161 for the residential 5/8" x 3/4" meter size. The initial customer deposit for all other meter sizes and customer classes should be two times the average estimated bill. The approved customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved initial customer deposits until authorized to change them by the Commission in a subsequent proceeding. (Friedrich)

**Position of the Parties**

**KWRU:** Two times the average customer bill based upon the final rate determination.

**OPC:** Agree with County.

**Monroe County:** The appropriate initial customer deposit for an initial service connection is one month's estimated bill. It is appropriate for KWRU to collect a deposit of two months' estimated bills for reconnection after disconnection for non-payment.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

The Utility argued that initial customer deposits should be two times the average customer bill based upon the final rate determination consistent with Commission practice in the Utility's last rate case. (KWRU BR 32)

**OPC**

In its brief, OPC stated that it agrees with the County's argument for this issue. (OPC BR 42)

**Monroe County**

The County argued that initial customer deposits should be based on one month's estimated bill for initial service connections. Since the customer base on Stock Island is predominantly low-income, the County believes that initial customer deposits based on two month's of estimated bills would impose additional burden on brand-new customers. However, if a customer is disconnected for non-payment, the County supported KWRU's collection of a customer deposit based on two month's bills. (County BR 42)

**ANALYSIS**

Rule 25-30.311, F.A.C., contains criteria for collecting, administering, and refunding customer deposits. Rule 25-30.311(1), F.A.C., requires that each company's tariff shall contain its specific criteria for determining the amount of initial deposits. It is Commission practice to establish customer deposits based on two times the average monthly bill consistent, with Rule 25-30.311(7), F.A.C., which allows a utility to require a new or additional deposit for existing

Date: July 26, 2018

customers based on two billing periods.<sup>42</sup> While it is Commission practice, KWRU's current tariff authorizes the Utility to collect initial customer deposits of two times the average estimated bill for all meter sizes, the tariff does not specify the amount.

Staff does not agree with the County's argument to set initial customer deposits based on one month's bill because setting customer deposits based on one month's bill would not effectively minimize the Utility's exposure of bad debt expense and would fail to account for the lag time between the customer's usage and the utility's revenue collection associated with usage. Therefore, staff recommends setting KWRU's customer deposits based on two billing periods.

Based on the Utility's MFRs, KWRU's average residential monthly demand is approximately 4,080 gallons (71,295 gallons/ 17,475 bills). (EXH 2, P 48) Therefore, based on staff's recommended rates in Issue 36 and KWRU's average residential monthly demand of approximately 4,080 gallons the appropriate customer deposit is \$161 for the residential 5/8" x 3/4" meter. The initial customer deposits for all other meter sizes and customer classes should be two times the average estimated bill.

### **CONCLUSION**

The appropriate initial customer deposit should be \$161 for the residential 5/8" x 3/4" meter size. The initial customer deposit for all other meter sizes and customer classes should be two times the average estimated bill. The approved customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved initial customer deposits until authorized to change them by the Commission in a subsequent proceeding.

---

<sup>42</sup>Order Nos. PSC-2018-0109-TRF-WS, issued February 27, 2018, in Docket No. 20170255-WS, *In re: Request for approval of amendment to tariff charge miscellaneous service charges and to collect customer deposits in Polk County, by Deer Creek RV Golf & County Club, Inc.*; PSC-17-0209-PAA-WU, issued May 30, 2017, in Docket No. 160065-WU, *In re: Application for increase in water rates in Charlotte County by Bocilla Utilities, Inc.*

Date: July 26, 2018

**Issue 42:** What are the appropriate Allowance for Funds Prudently Invested (AFPI) charges?

**Recommendation:** The appropriate AFPI charges are shown on Table 42-1. The Utility should file revised tariff sheets and a proposed notice reflecting the approved charges. KWRU should provide notice to property owners who have requested service within the 12 calendar months prior to the month the application was filed to the present. The approved charges should be effective for connections made on or after the stamped approval date on the tariff sheet. The Utility should provide proof of noticing within 10 days of rendering its approved notice. (Friedrich)

### **Position of the Parties**

**KWRU:** This is a fall-out calculation based on the NUU adjustment, which is stipulated. The amount will change based on pro forma in the affected accounts.

**OPC:** The appropriate AFPI charges are those included on Schedule E-10 of the MFRs.

**Monroe County:** No position.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

In its brief, KWRU stated that all parties identified the appropriate AFPI is provided in Schedule E-10 of the Utility's MFRs. KWRU's calculation of its requested AFPI was based on the inclusion of all pro forma projects. (KWRU BR 32)

### **OPC**

OPC argued the appropriate AFPI charges are those reflected in KWRU's E-2 Schedule of its MFRs. (OPC BR 42)

### **Monroe County**

The County took no position on this issue. (County BR 42)

## **ANALYSIS**

KWRU proposed AFPI charges in Schedule E-10 of its MFRs. (EXH 2 P 57-60) The Utility currently does not have Commission-approved AFPI charges in its tariff. Pursuant to Rule 25-30.434, F.A.C., an AFPI charge is a mechanism designed to allow a utility the opportunity to earn a fair rate of return on prudently constructed plant held for future use from the future customers that will be served by that plant. The rule also provides that the utility can continue to collect AFPI charges until all projected ERCs included in the calculation of the charge have been added. Additionally, the rule provides that it is prudent for the utility to have an investment in future plant for no longer than five years beyond the test year unless the utility can demonstrate that more than five years is appropriate.

Based on the approved stipulation of Issue 8, the Utility's treatment plant is considered 71.5 percent used and useful. Additionally, the Utility's wastewater collection system is considered 100 percent used and useful. Therefore, because approximately 28.5 percent of the Utility's treatment plant is considered non-used and useful capacity, staff believes the Utility's request for AFPI charges is appropriate. However, staff's recommended AFPI charges differ from those proposed in the Utility's application because staff utilized its recommended cost and capacity of qualifying assets, including annual depreciation expense, annual property tax, and rate of return, to calculate the recommended AFPI charges.

The test year used in this case for establishing the amount of non-used and useful plant is the 13-month period ended June 30, 2017. Pursuant to Rule 25-30.434(4), F.A.C., the beginning date for accruing the AFPI charge should agree with the month following the end of the test year that was used to establish the amount of non-used and useful plant. Therefore, the beginning date for the AFPI accrual in this case is July 1, 2017. Furthermore, in accordance with Rule 25-30.434(4), F.A.C., no charge may be collected for any connections made between the beginning dates and the effective date of the AFPI charges. Staff's recommended AFPI charges are based upon the time of the initial connection or prepayment and are shown on Table 42-1. These charges represent one ERC, and if a future customer requires more than one ERC, the connection fee should be multiplied by the number of ERCs which are required to provide service to the customer.

**Table 42-1**  
**Allowance for Funds Prudently Invested**  
**Calculation of Carrying Cost per ERC per Month**

	2017	2018	2019	2020	2021	2022
January		\$209.27	\$577.74	\$963.63	\$1,368.29	\$1,793.15
February		\$239.16	\$609.03	\$996.41	\$1,402.69	\$1,829.28
March		\$269.06	\$640.31	\$1,029.20	\$1,437.08	\$1,865.41
April		\$298.95	\$671.60	\$1,061.98	\$1,471.47	\$1,901.54
May		\$328.85	\$702.88	\$1,094.76	\$1,505.87	\$1,937.66
June		\$358.74	\$734.17	\$1,127.54	\$1,540.26	\$1,973.79
July	\$29.90	\$390.03	\$766.95	\$1,161.93	\$1,576.39	
August	\$59.79	\$421.31	\$799.73	\$1,196.33	\$1,612.52	
September	\$89.69	\$452.60	\$832.51	\$1,230.72	\$1,648.64	
October	\$119.58	\$483.88	\$865.29	\$1,265.11	\$1,684.77	
November	\$149.48	\$515.17	\$898.07	\$1,299.51	\$1,720.90	
December	\$179.37	\$546.45	\$930.85	\$1,333.90	\$1,757.03	

## CONCLUSION

The appropriate AFPI charges are shown on Table 42-1. The Utility should file revised tariff sheets and a proposed notice reflecting the approved charges. KWRU should provide notice to property owners who have requested service within the 12 calendar months prior to the month



Date: July 26, 2018

the application was filed to the present. The approved charges should be effective for connections made on or after the stamped approval date on the tariff sheet. The Utility should provide proof of noticing within 10 days of rendering its approved notice.

Date: July 26, 2018

**Issue 43:** What is the appropriate amount by which rates should be reduced to reflect the removal of the amortized rate case expense?

**Recommendation:** KWRU's wastewater rates should be reduced as shown on Schedule No. 4 to remove \$99,741 of wastewater rate case expense, grossed-up for RAFs, which is being 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 pursuant to Section 367.0816, F.S. KWRU 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 KWRU files this reduction in conjunction with a price index and/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. (Friedrich, Frank)

### **Position of the Parties**

**KWRU:** This is a fall-out calculation based on the allowed rate case expense amount. Rates should be reduced pursuant to Commission Rule 25-30.4705, F.A.C.

**OPC:** The amount should be a fall out depending on how much rate case expense, if any, the Commission approves to be collected in customer rates.

**Monroe County:** The appropriate reduction will be a fall-out value based on the amount of rate case expense and the amortization period approved by the Commission.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

The Utility contends this is a fall-out issue dependent on rate case expense. (KWRU BR 32)

### **OPC**

In its brief, OPC stated the amount should be dependent on the Commission-approved rate case expense. (OPC BR 42)

### **Monroe County**

The County contends the appropriate reduction is a fall-out value of the Commission-approved rate case expense. (County BR 42)

## **ANALYSIS**

Section 367.081 (8), F.S., requires that rates be reduced immediately following the expiration of the four-year amortization period by the amount of the rate case expense previously included in rates. The reduction will reflect the removal of \$99,741 of revenue associated with the amortization of rate case expense, the associated return on deferred rate case expense included in working capital, and the gross up for RAFs. Using KWRU's current revenues, expenses, capital

Date: July 26, 2018

structure, and customer base, the reduction in revenues will result in the rate decreases as shown on Schedule No. 4.

KWRU 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 should also be required to file a proposed customer notice setting forth the lower rates and the reason for the reduction. If KWRU files this reduction in conjunction with a price index and/or pass-through 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

### **CONCLUSION**

KWRU's wastewater rates should be reduced as shown on Schedule No. 4 to remove \$99,741 of wastewater rate case expense, grossed-up for RAFs, which is being 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 pursuant to Section 367.081(8), F.S. KWRU 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 KWRU files this reduction in conjunction with a price index and/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.

Date: July 26, 2018

**Issue 44:** In determining whether any portion of the interim wastewater revenue increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

**Recommendation:** The proper refund amount should be calculated by using the same data used to establish final rates, excluding rate case expense which was not in effect during the interim period. No refund should be required because the total interim collection period revenue requirement calculated is greater than the total interim revenue requirement granted. As a result, the corporate undertaking amount of \$78,925 should be released. (D. Andrews)

### **Position of the Parties**

**KWRU:** There should be no refund as KWRU's final rates evidenced by any and all testimony far exceed the interim rates.

**OPC:** This is a fall-out issue and should be based on the outcome of other issues. The interim rate refund, if any, should be calculated according to Commission policy and rule. This amount should be a fallout.

**Monroe County:** The amount of any refund of interim rates collected is a fall-out issue, and any refund should be calculated according to standard Commission practice and rules.

### **Staff Analysis:**

## **PARTIES' ARGUMENTS**

### **KWRU**

KWRU argued that all parties' positions point to an increase in final rates over the interim rates, therefore, no refund should be required. (KWRU BR 32)

### **OPC**

OPC stated that this is a fall out issue based on the outcomes of other issues. (OPC BR 43) OPC argued that, if an interim rate refund is necessary, it should be calculated according to Commission policy and rule. (OPC BR 43)

### **Monroe County**

The County argued that this is a fall out issue and that, if any refund is necessary, it should be calculated according to standard Commission practice and rules. (County BR 42)

## **ANALYSIS**

The Commission authorized KWRU to collect interim wastewater rates, subject to refund, pursuant to Section 367.082, F.S. The approved interim revenue requirement of \$2,425,904 represented an increase of \$85,629 or 3.66 percent.<sup>43</sup>

---

<sup>43</sup> Order No. PSC-2018-0102-PCO-SU, issued February 26, 2018, in Docket No. 20170141-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.*

Date: July 26, 2018

According to Section 367.082(4), F.S., any refund should be calculated to reduce the rate of return of the Utility during the pendency of the proceeding to the same level within the range of the newly authorized rate of return. Adjustments made in the rate case test period that do not relate to the period that interim rates are in effect should be removed. Rate case expense is an example of an adjustment which is recovered only after final rates are established.

In this proceeding, the test period for establishment of interim and final rates is the 12-month period ended June 30, 2017. KWRU's approved interim rates did not include any provisions for pro forma operating expenses or plant. The interim increase was designed to allow recovery of actual interest expense, and the lower limit of the last authorized range of return on equity.

To establish the proper refund amount, staff calculated an interim period revenue requirement utilizing the same data used to establish final rates. Rate case expense was excluded because this item is prospective in nature and did not occur during the interim collection period. Using the principles discussed above, the interim test year revenue requirement of \$2,425,904, granted in Order PSC-2018-0102-PCO-SU, issued February 26, 2018, is less than staff's calculated interim period revenue requirement.

### **CONCLUSION**

No refund should be required because the total interim collection period revenue requirement calculated is greater than the total interim revenue requirement that was granted. As a result, the corporate undertaking amount of \$78,925 should be released.

**Issue 45:** Should the Utility maintain an asset management and preventive maintenance plan? If so, what action, if any, should be taken?

**Recommendation:** Staff recommends KWRU provide a proposed asset management and preventative maintenance plan for the Commission's consideration at the time of the Utility's next rate case. (Knoblauch)

**Position of the Parties**

**KWRU:** Yes, predicated upon full employment (14 employees).

**OPC:** Yes. KWRU should focus on establishing a robust asset management and preventative maintenance planning process. Doing so will improve service, reduce costs, extend intervals between maintenance outages, and extend the life of valuable assets

**Monroe County:** Yes.

**Staff Analysis:**

**PARTIES' ARGUMENTS**

**KWRU**

KWRU argued that more proactive maintenance could be completed by the Utility, contingent on a full operating staff. (KWRU BR 33) KWRU also argued that OPC witness Woodcock testified that additional employees may not be required, but a sufficient number is needed. (KWRU BR 33) Implementing an asset management and preventative maintenance plan could lengthen the life of assets, though there is no single standard asset management plan that fits all utilities. (KWRU BR 33)

**OPC**

OPC argued that KWRU should maintain an asset management and preventative maintenance plan to enhance its service, decrease costs, and prolong the life of the Utility's assets. (OPC BR 43) OPC affirmed that based on OPC witness Woodcock's testimony, additional costs or extra employees would not be needed to implement asset management principles as they relate to KWRU's operations and planning activities. (OPC BR 43) OPC argued that resources were provided by witness Woodcock, and the Utility should utilize these resources before its next rate case. (OPC BR 43)

**Monroe County**

The County argued that KWRU should maintain an asset management and preventative maintenance plan. (County BR 42)

**ANALYSIS**

In OPC witness Woodcock's direct testimony, he testified that based on his site visit and discovery responses, KWRU has been tracking maintenance on a short term basis, but does not have a long term plan in place. Witness Woodcock testified that the Utility provided

Date: July 26, 2018

documentation indicating that KWRU is performing regular maintenance and tracking the work performed. (TR 355-356) However, OPC witness Woodcock testified that the Utility does not have a systematic program for tracking and planning maintenance activities. Witness Woodcock affirmed that asset management principles should be implemented by KWRU to improve the operation and maintenance of its assets, and to allow the Utility to track, plan, and budget for equipment replacements. (TR 355-356) For implementation, witness Woodcock stated that the U.S. Environmental Protection Agency offers asset management resources, and application of an asset management plan does not require additional employees, but can be executed by skilled wastewater managers and operators. (TR 357-358)

In rebuttal testimony, KWRU witness Johnson testified that he agreed with witness Woodcock that the Utility could do more to implement proactive maintenance, but stated that asset management techniques require “adequate labor.” (TR 894-895) Witness Johnson asserted that KWRU would be able to put into practice an asset maintenance program with 14 employees as there would be adequate staffing to run day-to-day operations and the Utility would be able to undertake such a project. (TR 894-895)

Taking into account witness Woodcock’s testimony, as well as witness Johnson’s agreement with witness Woodcock, staff believes that more should be done by KWRU to implement asset management principles. However, neither witness Woodcock nor witness Johnson provided any clear recommendations for how an asset management and preventative maintenance plan should be implemented. Therefore, staff recommends that KWRU consider the resources offered by witness Woodcock, and provide a proposed asset management and preventative maintenance plan for the Commission’s consideration at the time of the Utility’s next rate case.

### **CONCLUSION**

Based on the discussion above, staff recommends KWRU provide a proposed asset management and preventative maintenance plan for the Commission’s consideration at the time of the Utility’s next rate case.

Date: July 26, 2018

**Issue 46:** Should the Utility be required to notify, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) associated with the Commission-approved adjustments?

**Recommendation:** Yes, The Utility should be required to notify the Commission, in writing, that it has adjusted its books in accordance with any Commission ordered adjustments. KWRU should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA accounts 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 within seven days prior to deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days. (Frank)

***Position of the Parties***

**KWRU:** Yes.

**OPC:** Yes, the Utility should be required to notify the Commission, in writing, that it has adjusted its books, and if the Utility fails to do so, the Commission should order Utility to show cause for its failure to comply with Commission ordered adjustments.

**Monroe County:** Yes.

**Staff Analysis:** The Utility should be required to notify the Commission, in writing, that it has adjusted its books in accordance with any Commission ordered adjustments. KWRU should submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA accounts 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 within seven days prior to deadline. Upon providing good cause, staff should be given administrative authority to grant an extension of up to 60 days.



Date: July 26, 2018

**Issue 47:** Should this docket be closed?

**Recommendation:** No. This 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 the Utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively. (Mapp)

**Staff Analysis:** This 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 the Utility has provided staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively.

KWRU Schedule of Wastewater Rate Base Test Year Ended 06/30/17			Schedule No. 1-A Docket No. 20170141-WS		
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year
1 Plant in Service	\$13,541,772	\$6,346,023	\$19,887,795	(\$1,036,689)	\$18,851,106
2 Land and Land Rights	375,000	0	375,000	0	375,000
3 Non-used and Useful Components	0	(2,652,257)	(2,652,257)	155,998	(2,496,259)
4 CWIP	1,311,463	(1,311,463)	0	0	0
5 Accumulated Depreciation	(6,490,653)	212,962	(6,277,691)	1,041,034	(5,236,657)
6 CIAC	(10,406,318)	0	(10,406,318)	0	(10,406,318)
7 Amortization of CIAC	3,898,064	0	3,898,064	0	3,898,064
8 Working Capital Allowance	<u>0</u>	<u>2,219,132</u>	<u>2,219,132</u>	<u>(1,123,186)</u>	<u>1,095,946</u>
9 <b>Rate Base</b>	<u>\$2,229,328</u>	<u>\$4,814,397</u>	<u>\$7,043,725</u>	<u>(\$962,842)</u>	<u>\$6,080,883</u>

<b>KWRU</b> <b>Adjustments to Rate Base</b> <b>Test Year Ended 06/30/17</b>		<b>Schedule No. 1-B</b> <b>Docket No. 20170141-WS</b>
Explanation		Wastewater
<b>Plant In Service</b>		
1 To reflect lift station retirement. (Issue 4)		(\$109,795)
2 To reflect pro forma WWTP rehabilitation. (Issue 4)		84,360
3 To reflect pro forma chlorine contact chamber. (Issue 4)		30,266
4 To reflect chlorine contact chamber retirement. (Issue 4)		(826,560)
5 To reflect pro forma generator. (Issue 4)		65,139
6 To reflect generator retirement. (Issue 4)		(128,257)
7 To reflect pro forma tow behind generator. (Issue 4)		(25,554)
8 To reflect pro forma telephone system. (Issue 4)		(3,991)
9 To reflect pro forma service truck with crane. (Issue 4)		(9,069)
10 To reflect pro forma office structures & improvements. (Issue 4)		(43,063)
11 To reflect office retirement. (Issue 4)		(68,975)
12 To reflect pro forma sand sifter. (Issue 4)		(1,190)
<b>Total</b>		<u>(\$1,036,689)</u>
<b>Non-used and Useful</b>		
To reflect net non-used and useful adjustment to rate base. (Issue 10)		<u>\$155,998</u>
<b>Accumulated Depreciation</b>		
1 To reflect pro forma accumulated depreciation. (Issue 5)		\$1,044,031
2 To remove annualization associated with routine plant additions. (Issue 5)		7,845
3 To reflect appropriate annualization associated with AWT. (Issue 5)		<u>(10,842)</u>
<b>Total</b>		<u>\$1,041,034</u>
<b>Working Capital</b>		
1 To reflect appropriate cash. (Issue 9)		(\$593,848)
2 To remove FPSC escrow account. (Issue 9)		(281,123)
3 To remove unamortized debt discount expense. (Issue 9)		(43,206)
4 To reflect appropriate deferred rate case expense. (Issue 9)		(169,673)
5 To reflect other miscellaneous deferred debits. (Issue 9)		<u>(35,336)</u>
<b>Total</b>		<u>(\$1,123,186)</u>

KWRU Capital Structure-13-Month Average Test Year Ended 06/30/17						Schedule No. 2 Docket No. 20170141-WS		
Description	Total Capital	Specific Adjust- ments	Subtotal Adjusted Capital	Prorata Adjust- ments	Capital Reconciled to Rate Base	Ratio	Cost Rate	Weighted Cost
<b>Per Utility</b>								
1 Long-term Debt	\$2,209,292	\$0	\$2,209,292	\$1,250,988	\$3,460,280	49.13%	4.88%	2.40%
2 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
4 Common Equity	2,159,569	0	2,159,569	1,222,834	3,382,403	48.02%	10.39%	4.99%
5 Customer Deposits	201,041	0	201,041	0	201,041	2.85%	2.00%	0.06%
6 Tax Credits-Zero Cost	0	0	0	0	0	0.00%	0.00%	0.00%
7 Deferred Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>
8 <b>Total Capital</b>	<u>\$4,569,902</u>	<u>\$0</u>	<u>\$4,569,902</u>	<u>\$2,473,822</u>	<u>\$7,043,724</u>	<u>100.00%</u>		<u>7.45%</u>
<b>Per Staff</b>								
9 Long-term Debt	\$2,209,292	\$0	\$2,209,292	\$764,089	\$2,973,381	48.90%	5.39%	2.64%
10 Short-term Debt	0	0	0	0	0	0.00%	0.00%	0.00%
11 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%
12 Common Equity	2,159,569	0	2,159,569	746,892	2,906,461	47.80%	10.39%	4.97%
13 Customer Deposits	201,041	0	201,041	0	201,041	3.31%	2.00%	0.07%
14 Tax Credits-Zero Cost	0	0	0	0	0	0.00%	0.00%	0.00%
15 Deferred Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>
16 <b>Total Capital</b>	<u>\$4,569,902</u>	<u>\$0</u>	<u>\$4,569,902</u>	<u>\$1,510,981</u>	<u>\$6,080,883</u>	<u>100.00%</u>		<u>7.67%</u>
						<b><u>LOW</u></b>	<b><u>HIGH</u></b>	
RETURN ON EQUITY						<u>9.39%</u>	<u>11.39%</u>	
OVERALL RATE OF RETURN						<u>7.19%</u>	<u>8.15%</u>	

KWRU Statement of Wastewater Operations Test Year Ended 06/30/17				Schedule No. 3-A Docket No. 20170141-WS			
Description	Test Year Per Utility	Utility Adjust- ments	Adjusted Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year	Revenue Increase	Revenue Requirement
1 <b>Operating Revenues:</b>	<u>\$2,130,307</u>	<u>\$1,551,910</u>	<u>\$3,682,217</u>	<u>(\$1,322,606)</u>	<u>\$2,359,611</u>	<u>\$1,142,487</u> 48.42%	<u>\$3,502,098</u>
<b>Operating Expenses</b>							
2    Operation & Maintenance	\$1,720,331	\$812,727	\$2,533,058	(\$100,183)	\$2,432,875		\$2,432,875
3    Depreciation	144,159	192,324	336,483	(33,349)	303,134		303,134
4    Amortization	0	0	0	0	0		0
5    Taxes Other Than Income	175,513	112,405	287,918	(39,508)	248,410	51,412	299,822
6    Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7 <b>Total Operating Expense</b>	<u>2,040,003</u>	<u>1,117,456</u>	<u>3,157,459</u>	<u>(173,040)</u>	<u>2,984,419</u>	<u>51,412</u>	<u>3,035,831</u>
8 <b>Operating Income</b>	<u>\$90,304</u>	<u>\$434,454</u>	<u>\$524,758</u>	<u>(\$1,149,566)</u>	<u>(\$624,808)</u>	<u>\$1,091,075</u>	<u>\$466,267</u>
9 <b>Rate Base</b>	<u>\$2,229,328</u>		<u>\$7,043,725</u>		<u>\$6,080,883</u>		<u>\$6,080,883</u>
10 <b>Rate of Return</b>	<u>4.05%</u>		<u>7.45%</u>		<u>-10.27%</u>		<u>7.67%</u>

<b>KWRU</b> <b>Adjustments to Operating Income</b> <b>Test Year Ended 06/30/17</b>		<b>Schedule No. 3-B</b> <b>Docket No. 20170141-WS</b>
Explanation		Wastewater
<b>Operating Revenues</b>		
1 Remove requested final revenue increase		(\$1,349,690)
2 To reflect test year revenues. (Issue 16)		<u>27,084</u>
<b>Total</b>		<u>(\$1,322,606)</u>
<b>Operation and Maintenance Expense</b>		
1 To reflect appropriate salaries & wage expense. (Issue 18)		(\$83,645)
2 To reflect appropriate pensions & benefits expense. (Issue 19)		(3,487)
3 To reflect pro forma purchased power expense. (Issue 20)		13,237
4 To reflect appropriate test year materials & supplies expense. (Issue 21)		(55,070)
5 To reflect appropriate test year cont. services - other expense. (Issue 21)		43,290
6 To reflect appropriate test year cont. services - eng. expense. (Issue 22)		(11,370)
7 To reflect appropriate test year rental of equipment expense. (Issue 23)		(1,258)
8 To reflect pro forma worker's comp expense. (Issue 24)		(3,861)
9 To reflect pro forma amortization of hurricane expenses. (Issue 26)		(7,022)
10 To reflect appropriate test year miscellaneous expense. (Issue 27)		(3,888)
11 To reflect pro forma telephone expense. (Issue 28)		(4,982)
12 To reflect appropriate rate case expense. (Issue 29)		24,153
13 To reflect appropriate test year Advertising Expense. (Issue 30)		(4,775)
14 To reflect appropriate test year cont. services - testing expense. (Issue 30)		<u>(1,504)</u>
<b>Total</b>		<u>(\$100,183)</u>
<b>Depreciation Expense - Net</b>		
1 To reflect pro forma depreciation expense. (Issue 32)		(\$8,565)
2 To remove annualization associated with routine plant additions. (Issue 32)		(9,468)
3 To reflect appropriate annualization associated with AWT. (Issue 32)		(47,772)
4 To reflect net non-used and useful adjustment. (Issue 32)		<u>32,457</u>
<b>Total</b>		<u>(\$33,349)</u>
<b>Taxes Other Than Income</b>		
1 To remove RAFs on revenue increase. (Issue 33)		(\$59,517)
2 To remove property tax on non U&U adjustment. (Issue 33)		22,954
3 To reflect pro forma plant. (Issue 33)		(458)
4 To reflect pro forma salaries. (Issue 33)		<u>(2,488)</u>
<b>Total</b>		<u>(\$39,508)</u>

Date: July 26, 2018

K W Resort Utilities Corp. Test Year Ended June 30, 2017 Monthly Wastewater Rates					Schedule No. 4 Docket No. 20170141-SU
	Rates Prior to Filing	Commission Approved Interim	Utility Requested Final	Staff Recommended Rates	Four Year Rate Reduction
<b><u>Residential Service</u></b>					
Base Facility Charge All Meter Sizes	\$31.86	\$33.07	\$50.74	\$47.78	\$1.40
Charge per 1,000 gallons 10,000 gallon cap	\$5.28	\$5.48	\$8.41	\$7.92	\$0.23
<b><u>General Service</u></b>					
Base Facility Charge by Meter Size					
5/8" x 3/4"	\$31.86	\$33.07	\$50.74	\$47.78	\$1.40
1"	\$79.65	\$82.66	\$126.84	\$119.45	\$3.50
1-1/2"	\$159.30	\$165.33	\$253.69	\$238.90	\$7.00
2"	\$254.88	\$264.53	\$405.90	\$382.24	\$11.20
3"	\$509.76	\$529.05	\$811.79	\$764.48	\$22.40
4"	\$796.50	\$826.64	\$1,268.43	\$1,194.50	\$35.00
6"	\$1,593.00	\$1,653.28	\$2,536.85	\$2,389.00	\$70.00
8"	\$2,548.80	\$2,645.25	\$4,058.96	\$3,822.40	\$112.00
8" Turbo	\$2,867.40	\$2,975.91	\$4,566.33	\$4,300.20	\$126.00
Charge per 1,000 gallons	\$6.33	\$6.57	\$10.08	\$9.49	\$0.28
<b><u>Harbor Shores</u></b>					
Base Facility Charge (69 ERCs)	\$2,198.34	\$2,281.53	\$3,500.86	\$3,296.82	\$96.27
Charge per 1,000 gallons 690,000 gallon cap	\$5.28	\$5.48	\$8.41	\$7.92	\$0.23
<b><u>Private Lift Station Owners</u></b>					
5/8" x 3/4"	\$25.49	\$26.45	\$40.59	\$38.22	\$1.12
1"	\$63.72	\$66.14	\$101.47	\$95.56	\$2.80
1-1/2"	\$127.44	\$132.27	\$202.95	\$191.12	\$5.60
2"	\$203.90	\$211.64	\$324.71	\$305.79	\$8.96
3"	\$407.81	\$423.27	\$649.44	\$611.58	\$17.92
4"	\$637.20	\$661.37	\$1,014.74	\$955.60	\$28.00
6"	\$1,274.40	\$1,322.73	\$2,029.48	\$1,911.20	\$56.00
8"	\$2,039.04	\$2,116.37	\$3,247.17	\$3,057.92	\$89.60
Charge per 1,000 gallons	\$6.33	\$6.57	\$10.08	\$9.49	\$0.28
<b><u>Reuse Service</u></b>					
Charge per 1,000 gallons	\$1.34	\$1.39	\$2.13	\$2.01	\$0.06
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>					
4,000 Gallons	\$52.98	\$54.99	\$84.38	\$79.46	
6,000 Gallons	\$63.54	\$65.95	\$101.20	\$95.30	
8,000 Gallons	\$74.10	\$76.91	\$118.02	\$111.14	
10,000 Gallons	\$84.66	\$87.87	\$134.84	\$126.98	