

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 110200 WU

APPLICATION FOR INCREASE IN WATER  
RATES IN FRANKLIN COUNTY BY WATER  
MANAGEMENT SERVICES, INC.

COMMISSION  
CLERK

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PROCEEDINGS: COMMISSION CONFERENCE  
ITEM NO. 8

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

DATE: Tuesday, November 27, 2012

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

REPORTED BY: JANE FAUROT, RPR  
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## P R O C E E D I N G S

1  
2           **CHAIRMAN BRISÉ:** Moving on to Item Number 8.

3           **MR. BROWN:** Good morning, Commissioners. I'm  
4 Todd Brown with Commission staff.

5           Item 8 is staff's recommendation addressing  
6 whether WMSI should be permitted to withdraw funds from  
7 the PAA escrow account. Representatives from the  
8 utility and the Office of Public Counsel are present  
9 and may wish to address the Commission. Staff is  
10 prepared to answer any questions the Commissioners may  
11 have at this time.

12           **CHAIRMAN BRISÉ:** All right. Commissioners.

13           All right. Mr. Friedman.

14           **MR. FRIEDMAN:** Thank you, Mr. Chairman,  
15 Commissioners. My name is Martin Friedman of the law  
16 firm of Sundstrom Friedman & Fumero, and we represent  
17 Water Management Services, Inc., in this proceeding.  
18 And we disagree with the staff's suggestion that the  
19 \$190,000, which Water Management Services is going to  
20 pay for these lots upon which the new water storage  
21 tank is going to be located, should be considered as  
22 CIAC. And there are about five separate independent  
23 reasons for doing so, or for not accepting the staff's  
24 recommendation.

25           In this rate case, the Commission determined

1 that the construction of a new water tank was in the  
2 best interest of the customers and was necessary. It  
3 established a rate based upon the revenues required to  
4 install that new tank with a true-up at the end. If  
5 you recall -- so that's the one issue.

6 The Commission determined that the utility  
7 was entitled to revenue of X amount of dollars to do  
8 this project. And it was only because the Public  
9 Counsel and the staff had some concerns about whether  
10 that money would actually go to those projects that the  
11 company suggested, if you remember, it was a suggestion  
12 that the company made at the agenda to say, look, if  
13 you have got a problem with it, we'll escrow the money.  
14 And that was what the Commission did. There was no  
15 protest of that particular issue. So the revenue  
16 requirement in connection with that project has been  
17 established, was not protested, and is final as far as  
18 the status of this case is concerned.

19 Now, had the escrow account not been set up,  
20 had this order just gone forward that the utility is  
21 entitled to those revenues, we wouldn't even be here.  
22 This wouldn't be an issue about whether that money  
23 should be CIAC or not. It was only because the money  
24 is going through an escrow account that staff all a  
25 sudden has an epiphany and says, oh, my goodness, this

1 must be CIAC. That makes no sense at all. If the  
2 revenues were not CIAC without going through an escrow,  
3 how can they all of a sudden be converted to CIAC  
4 because it goes through an escrow? That legally and  
5 factually makes no sense at all.

6 The only reason the staff apparently thinks  
7 that this money should be CIAC is because of the terms  
8 that were negotiated. If this were a standard -- as  
9 you recall, this is a contract that was entered into  
10 with monthly payments. Once the payments are  
11 completed, or the rate case is over with, then the deed  
12 is transferred. That is commonly referred to as a  
13 contract for deed in the real estate field, not an  
14 unusual way of transferring property from contract for  
15 deed.

16 I think what confuses the staff is I don't  
17 think they understand that concept. And so what they  
18 are looking at -- if this has been a standard mortgage,  
19 you go out to the bank and instead of getting a  
20 contract for deed you're going to say, bank, I want to  
21 borrow the money; you give me the deed, and then I'll  
22 give you a mortgage. If they would have done that  
23 traditional financing, staff's argument about being  
24 CIAC would be out the window. It's only because the  
25 utility chose to do a contract for deed -- and,

1 incidentally, by doing a contract for deed as opposed  
2 to a deed mortgage, you're saving the lawyer fees in  
3 handling that, you're saving the lawyer fees you would  
4 have to pay the bank to do the documentation, you're  
5 saving documentary stamp taxes, you're saving  
6 intangible taxes, and you're saving recording fees, and  
7 interest.

8 He negotiated an interest-free loan. And  
9 because he negotiated an interest-free loan, the staff  
10 says, oh, let's call it CIAC. The old adage no good  
11 deed goes unpunished. He should be -- the staff should  
12 be saying, boy, that's a good deal, you know, you  
13 negotiated an interest-free loan for a year. And the  
14 staff wants to say, no, what we want to do is to take  
15 \$200,000 out of your rate base. And that makes no  
16 sense at all.

17 Finally, if you look at your rule definition  
18 of CIAC, contribution in aid of construction means the  
19 amount of money, services, or property received by a  
20 utility from persons or governmental agencies, any  
21 portion of which is provided at no cost to the utility,  
22 which represents an addition or transfer to capital of  
23 the utility and which is used to offset the  
24 acquisition, improvement, and construction costs of the  
25 utilities, property facilities, et cetera.

1           This is not -- this is revenue that this  
2 Commission has already decided this utility is entitled  
3 to. And if you all of a sudden say it is CIAC, what  
4 you are effectively doing is changing the revenue  
5 requirement that is approved in the PAA which was not  
6 protested and is therefore final. And I would suggest  
7 to you that for that reason, as well, you don't have  
8 the authority to do what the staff wants you to do.  
9 Even if it made sense you couldn't do that.

10           So for all of those independent reasons, it  
11 is not CIAC under the definition, it wouldn't be CIAC  
12 if it were a typical mortgage deed as opposed to a  
13 contract for deed. And I don't know, I'm no -- I'm  
14 sure Commissioner Brown is very familiar with contract  
15 for deeds. I'm not sure how much everybody is because  
16 most people do a deed mortgage. And the fact that that  
17 mechanism saved the utility, and thus the company, a  
18 substantial amount of money, and the fact that the PAA  
19 order is final, and what the staff is asking you to do  
20 is to change something that was not protested in the  
21 PAA.

22           And I think for all of those reasons, each of  
23 which independently is a legitimate basis for denying  
24 the staff recommendation, that you deny the staff's  
25 recommendation to treat those payments as CIAC.

1 Thank you.

2 **CHAIRMAN BRISÉ:** Thank you.

3 Mr. Sayler.

4 **MR. SAYLER:** Good morning, Mr. Chairman,  
5 Commissioners. My name is Erik Sayler on behalf of the  
6 Office of Public Counsel and the customers of WMSI.

7 The Office of Public Counsel did not protest  
8 the escrow requirement issue or the pro forma plant in  
9 this particular case. We are here today merely to  
10 answer questions should any questions come from the  
11 bench our direction. And we do support staff's  
12 recommendation as well as how they are recommending for  
13 the treatment of the CIAC.

14 **CHAIRMAN BRISÉ:** All right. Thank you.  
15 Commissioner Brown.

16 **COMMISSIONER BROWN:** Thank you.

17 Staff, I think Mr. Friedman made some really  
18 good arguments here. Could you please respond to this,  
19 the fact that OPC did not protest the issue, and our  
20 order required the placement of the tank? Can you  
21 respond to some of the arguments that Mr. Friedman  
22 made?

23 **MR. MAUREY:** Yes; thank you.

24 Andrew Maurey, Commission Staff. We are in  
25 agreement with some of the points he made, and in

1 disagreement with others, obviously. The PAA portion  
2 of the order dealing with the pro forma project was not  
3 protested, and it's our intent that that go forward. I  
4 think everyone at the table would agree that that  
5 project should go forward.

6 We disagree with some of the points Mr.  
7 Friedman made regarding the mortgage. If this were a  
8 mortgage, and it was only interest coming out of the  
9 PAA, we would be in full agreement with him. But it's  
10 not. It's principal payments that are coming out of  
11 the PAA escrow account. If you go back to the order,  
12 it was meant to pay debt service, whether it be DEP or  
13 a loan for this pro forma project. But that's not what  
14 they are proposing, that is not what is before the  
15 staff or before the Commission today. It's to take the  
16 money from the PAA escrow account and buy the land  
17 outright.

18 We don't disagree that being able to buy the  
19 land at 190,000 versus the 420,000 is a better deal.  
20 We'd like to see that go forward. However, under the  
21 proposal that was approved by the Commission the  
22 revenue requirement was greater than the actual revenue  
23 requirement necessary to run the company now. The bulk  
24 of that revenue requirement that was approved in the  
25 PAA order was meant for this to support the pro forma

1 project that hasn't happened yet. So it's  
2 over-collecting at this time, if you will, to build a  
3 fund to help make the utility more attractive to future  
4 lenders to help pay for this project in the future.

5 But now they are proposing to take the cash  
6 from the PAA account and buy the land for cash. We  
7 view that as CIAC at this point because you are buying  
8 the land outright and not financing it over time. Had  
9 they bought the land over time, customers would be  
10 paying rateably over it for 30 years. Instead they are  
11 going to pay for the whole sum in 13 months.

12 Then it would be put into rate base, which  
13 land doesn't depreciate. It will be there for  
14 perpetuity. The company would earn a return on an  
15 asset the customers bought in 13 months. So it's a  
16 difference of opinion on whether it should be in CIAC  
17 or land, but we believe that we're not confused. We  
18 understand the difference between the two forms of  
19 mortgage, and because this is structured the way it has  
20 been proposed this is our recommendation.

21 **COMMISSIONER BROWN:** And I would acknowledge  
22 that it is a better deal than the utility negotiated.

23 **MR. MAUREY:** Oh, absolutely. And as I said,  
24 we would applaud the utility for trying to minimize the  
25 cost of this very necessary project. This project has

1       been necessary for three years, and we are still before  
2       you now trying to get this undertaken.

3               **COMMISSIONER BROWN:** Mr. Chairman, I would  
4       like the opportunity to have the utility respond to  
5       some of the comments made by staff.

6               **CHAIRMAN BRISÉ:** Sure.

7               **COMMISSIONER BROWN:** Mr. Friedman.

8               **MR. FRIEDMAN:** Absolutely. Thank you very  
9       much, Commissioner Brown.

10              It's interesting that if the money didn't go  
11       through escrow that the company wouldn't be, quote,  
12       over-collecting, as staff says. The staff says, oh,  
13       they are over-collecting. Well, if it don't go through  
14       the escrow, there's no difference, they wouldn't be  
15       over-collecting. The whole argument that staff is  
16       making -- and that's the same thing about debt service.  
17       I mean, debt service, if they had gone out and borrowed  
18       the money from a bank, \$190,000, and said, yep, we're  
19       going to pay you at 10 percent interest on that  
20       \$190,000, and we are going to amortize it over 12  
21       months, we wouldn't be here. We wouldn't be here.

22              Under their theory, the principal amount of  
23       every loan that a utility takes out would be CIAC. How  
24       much sense does that make? It doesn't make any. The  
25       debt service -- because the company did a heck of a

1 deal, and they're going to sell some of those lots, and  
2 so that \$109,000 is probably going to only be 140  
3 instead of the -- it's about a \$230,000 savings over  
4 what we estimated. And so in the true-up, you know,  
5 when we true-up that, that is going to be a benefit to  
6 the customers.

7 So that 190 that he wants you to call CIAC is  
8 really going to be about 150 after it's all done. But  
9 the fact of the matter is that just -- you made a  
10 decision. You made a decision that the company is  
11 entitled to X amount of dollars to do this project.  
12 You didn't say they were over-collecting. The staff  
13 didn't say that by doing that you would be  
14 over-collecting, at least they didn't then.

15 Now, when it suits their purpose, they say,  
16 oh, yes, you're over-collecting. There's no  
17 difference. If the money did not go through escrow we  
18 would not be here. And, in fact, as you remember,  
19 we're the ones that suggested, okay, if everybody  
20 thinks that Mr. Brown is not going to use that money  
21 for that purpose, we'll agree to put it in escrow.  
22 Another one of those no good deed goes unpunished.

23 So we thought that we were accomplishing  
24 something with the staff to give them the comfort that  
25 the money was going to be spent correctly, but the

1 bottom line is that this is revenue that this  
2 Commission in the PAA order approved for this company,  
3 and that portion of the PAA order has not been  
4 protested. And to do what the staff wants you to do  
5 would be to change the PAA order without having a  
6 protest, and I think that's inappropriate.

7 Thank you.

8 **CHAIRMAN BRISÉ:** Mr. Maurey.

9 **MR. MAUREY:** Thank you. Let me clarify that  
10 because it's in the escrow or not the escrow isn't the  
11 deciding factor. When this recommendation came before  
12 you before, staff recommended a Phase I and a Phase II  
13 increase. The Phase I was very, very small, maybe a  
14 percentage or two. Phase II was the lion's share of  
15 the increase, and that was associated when the pro  
16 forma project went into service, commercial operation.

17 During the debate, it was decided to bring  
18 that Phase II forward. So when that rate increase was  
19 granted, it was before the pro forma project is -- in  
20 fact, it's not done. They are collecting that rate now  
21 as if that plant is used and useful, is in commercial  
22 service. It is not. The money is in escrow, and I do  
23 believe the Commission approved it by putting that  
24 money in escrow for that set of facts there. There is  
25 no plant that this incremental revenue requirement is

1 supporting right now. That's why it was put in escrow.

2           It's a red herring to say that staff is  
3 recommending this be CIAC because it ran through an  
4 escrow, because absent the escrow that incremental  
5 revenue requirement would not have been approved. This  
6 money is ultimately being held for the protection of  
7 the customers in the event that the project isn't  
8 completed. Until that time that the plant goes into  
9 commercial service, that's what staff's definition of  
10 over-collecting is. And maybe that's not the best  
11 term, but normally we associate revenue requirement  
12 with used and useful rate base. And right now, because  
13 of the precarious financial situation of this utility,  
14 we are not in that balance. We are in a situation  
15 where to help them make this pro forma project come to  
16 fruition, this was the path that the Commission  
17 approved.

18           It collected that PAA money -- if they were  
19 requesting money to pay interest on the loan, we would  
20 be recommending approval of it. But what they are  
21 recommending is that they pay for the land outright  
22 through the money that is collected. It's being built  
23 up based on a revenue requirement that is not really  
24 being incurred at this time. I'm trying to draw a  
25 distinction that maybe I'm not being as clear as I

1 could be on it, but we are still in disagreement with  
2 counsel.

3 **CHAIRMAN BRISÉ:** All right.

4 Commissioner Balbis.

5 **COMMISSIONER BALBIS:** Thank you.

6 I have a question for staff. I believe when  
7 this Commission voted on the PAA and the subsequent  
8 order that came from that, when we put Phase I and  
9 Phase II in the escrow, wasn't there some sort of  
10 true-up of the projects when the tank came on line, et  
11 cetera, that there would be a true-up on the actual  
12 cost?

13 **MR. MAUREY:** That's correct.

14 **COMMISSIONER BALBIS:** Okay. So why couldn't  
15 this be handled the same way, that the land was  
16 anticipated at a cost of \$420,000, and now it's less,  
17 and handle it with a true-up at that point. And  
18 regardless of how -- what accounting mechanism or  
19 escrow or not in escrow, I mean, at least my thought  
20 process in approving the escrow account was there was  
21 going to be a final true-up, and that we need to give  
22 the utility the money to move forward with the project,  
23 but protect the customers so that whatever the costs  
24 are the utility should recover it. But if they are  
25 less than that, they shouldn't recover that as well.

1           **MR. MAUREY:** It can be handled in that  
2 manner. We looked at it -- when they planned to buy  
3 the land, it was going to be paid off over time. Now  
4 you're talking about buying the land outright for cash.  
5 And we view that differently, that they were paying for  
6 it over 13 months in that respect. And as I mentioned  
7 earlier, land does not depreciate. It would be on the  
8 balance sheet into perpetuity, and either the company  
9 would earn a return on it into perpetuity for a  
10 purchase that could arguably be made by customer funds  
11 that were collected in advance of the operation going  
12 into commercial service.

13           But your proposal that it can be done that  
14 way, we could clear it, we could just pay for it with  
15 the PAA funds and true-up the total cost at the end,  
16 recognizing the difference between the 420 and whatever  
17 the 237,000 that it was going cost to use these  
18 different lots, and we would still be able to capture  
19 that incremental difference in the true-up.

20           **COMMISSIONER BALBIS:** And we would avoid the  
21 argument of whether or not it's appropriate to make it  
22 CIAC or not, if we do it that way?

23           **MR. MAUREY:** It would make that issue moot,  
24 yes.

25           **COMMISSIONER BALBIS:** Okay. I mean, I think

1 that's a reasonable approach. It avoids that argument,  
2 and customers are not paying more for something that at  
3 the end of the day costs less. You know, if you need a  
4 moment to think about it, but you sound pretty  
5 confident that that is one way to handle it. And I'd  
6 like to hear from the utility if that would be an  
7 appropriate way to handle this.

8 **MR. FRIEDMAN:** If I understand what you're  
9 saying, I mean, there is a true-up in the end. So  
10 whatever the actual amount of those lots are, the  
11 savings -- and I may have misspoke, it looks like the  
12 savings were estimated at about 270,000 over this. I  
13 may have said 320. It looks like the savings would be  
14 in the neighborhood of 270. When we true-up at the  
15 end, then that's going to be to the benefit of the  
16 customers. And the faster we are able to do that, the  
17 better that price and the price of the whole project is  
18 going to stay in place.

19 And unfortunately we are in a protest  
20 situation, so we can't start the project yet. But,  
21 yes, there is a true-up. I mean, the customers are  
22 going to be treated fairly at the end of the day, and  
23 the utility will be treated fairly at the end of the  
24 day by that true-up process. True-ups are a good way  
25 to do things. You know, it takes the estimates out of

1 the process. We don't have to estimate and then have  
2 somebody -- very seldom are estimates exact at the end  
3 of the day. If they are, it's a miracle.

4 So at the end of the day, if you don't do a  
5 true-up, either the customers are unduly benefited or  
6 the utility is unduly benefited. So by doing this  
7 true-up, we get it right. And I think that's a good  
8 process, and we certainly supported that from the  
9 get-go.

10 **COMMISSIONER BALBIS:** So let me just ask  
11 this, because although I always think my ideas are  
12 perfect, there has to be a negative that we're not  
13 thinking about. Is there any con to this new approach  
14 that I'm not seeing or staff isn't?

15 **MR. MAUREY:** Not that I haven't already  
16 brought up. I mean, you get to balance -- and you're  
17 not going to like every aspect of a decision. As I  
18 mentioned earlier, we looked at it differently. It's  
19 certainly -- we had a debate within staff about how to  
20 bring this recommendation to you, so that's why I could  
21 answer your question the way I did. We have already  
22 had that internal discussion, and I knew if that  
23 question came how that answer would go.

24 **COMMISSIONER BALBIS:** So what would be the  
25 process then, if we just included this in a true-up of

1 the actual costs?

2           **MR. MAUREY:** Well, to back up just a moment,  
3 on the escrow in some of the earlier issues we  
4 mentioned there's no money in there now. So at some  
5 point there will be money in there, and at some point  
6 they will be able to make withdrawals. We contemplated  
7 that there wouldn't be enough money in here to make  
8 these payments. And if the DEP payments that we were  
9 thinking -- we rolled them in the escrow account, we  
10 weren't contemplating that they would come out of here  
11 immediately, because the DEP payments were already  
12 built into the revenue requirement prior to the most  
13 recent rate increase.

14           We were packaging those and the escrow  
15 together to make this enterprise more attractive to  
16 lenders, to show a steady cash flow, certainty of cash  
17 flow for debt payment. But depending on how rapidly  
18 the money can grow in this PAA escrow account, and say  
19 there is money available, they would make these \$15,000  
20 payments monthly.

21           Now, he would have made some initial payments  
22 to get this started out of other sources of funds,  
23 because as I said, there's no money in the escrow  
24 account today. We would like to -- something in this  
25 order would allow us to make those kinds of payments.

1 Because the PAA order that wasn't protested gave staff  
2 administrative approval to make payments on loan  
3 payments or DEP payments. This land payment is not  
4 either of those. So there would have to be another  
5 allowance to give staff administrative authority to  
6 make those payments.

7 Past that, the land gets purchased, we would  
8 do a true-up. I think it's contemplated within 12 to  
9 18 months after the project is completed we would do a  
10 true-up. Find out what it truly cost, compare it to  
11 what was collected, that incremental difference would  
12 come back before the Commission for future disposition  
13 of those amounts.

14 **CHAIRMAN BRISÉ:** Commissioner Brown.

15 **COMMISSIONER BROWN:** Thank you.

16 I like Commissioner Balbis' idea. But,  
17 Andrew, I'm still trying to understand why you treat  
18 land that you purchase outright differently than, say,  
19 a mortgage that you pay.

20 **MR. MAUREY:** A fair question. In this case  
21 land is a long-lived asset. You generally buy it over  
22 time, and the customers then would pay for it rateably  
23 over time. In this instance you are buying a -- as I  
24 said, it doesn't depreciate, it's on the books forever,  
25 a big asset in one lump sum, and they are going to pay

1 a return on it. And these funds, as I mentioned  
2 earlier, were not contemplated to buy land with the PAA  
3 escrow account. It was contemplated to pay interest on  
4 construction loans, or the DEP loan, payments that are  
5 rateable over time, not large principal payments in 13  
6 months. And that was the distinction we were drawing.

7 But to your question, it's a difference  
8 between paying that land off over 30 years versus 13  
9 months.

10 **COMMISSIONER BROWN:** Okay.

11 **CHAIRMAN BRISÉ:** All right. Staff, do you  
12 need a couple of minutes to -- well, before that,  
13 Commissioner Balbis.

14 **COMMISSIONER BALBIS:** And I just want to  
15 clarify something. My proposal or idea is to have the  
16 true-up. And if the revenue requirements were set for  
17 an increased purchased price, then the utility should  
18 have enough money to go through whatever purchase  
19 mechanism they'd like.

20 Now whether or not it goes from the escrow  
21 account, I don't think that's important for me right  
22 now. So I just want to be clear that, you know, if the  
23 utility argues that they have the revenue requirement  
24 to make this purchase at the higher price, then you  
25 should have the revenue to do it. And so whether it

1 comes from the escrow or not, I'm not focusing on that  
2 right now. I just want to ensure that we have this  
3 true-up mechanism at the end and go from there, if I'm  
4 being clear.

5 **MR. MAUREY:** Yes, we have the true-up  
6 mechanism. Nothing in staff's recommendation changes  
7 that from the previous order.

8 **COMMISSIONER BALBIS:** Okay. So -- okay.

9 I believe the Chairman was going to ask then  
10 for a moment to put together the process that we need  
11 to take, but with that I'll turn it back.

12 **CHAIRMAN BRISÉ:** Right. I don't know if  
13 staff is clear on Commissioner Balbis' thought.

14 **MR. MAUREY:** We would take you up on the  
15 offer of a moment.

16 **CHAIRMAN BRISÉ:** Okay. I thought you would.  
17 So I guess we will start off with ten minutes, and  
18 we'll see where we are after that.

19 **MR. MAUREY:** Thank you.

20 **CHAIRMAN BRISÉ:** We are in recess for ten  
21 minutes.

22 (Recess.)

23 **CHAIRMAN BRISÉ:** All right. I think we are  
24 ready to reconvene.

25 Mr. Maurey.

1           **MR. MAUREY:** Thank you.

2           Thank you for the consideration. We went  
3 over the discussion from the bench looking at Issue 2,  
4 that's Page 4 of the recommendation. We believe if you  
5 strike the next to the last sentence in the  
6 recommendation paragraph that begins, "The amount of  
7 land ultimately," if you strike that sentence, and then  
8 when the order comes out we'll eliminate any mention of  
9 CIAC. But that will achieve what we believe the  
10 Commissioners intend to afford the utility an  
11 opportunity to make this purchase to complete this  
12 project, and then when the true-up is completed 12 to  
13 18 months afterwards, the customer's interest will be  
14 protected.

15           **CHAIRMAN BRISÉ:** All right.

16           Mr. Friedman.

17           **MR. FRIEDMAN:** I certainly concur in that.

18           **CHAIRMAN BRISÉ:** Mr. Sayler.

19           **MR. SAYLER:** One question. Will the issue of  
20 CIAC be reserved as an issue for the true-up  
21 proceeding, or is it just being struck? I was just  
22 wondering if the recommendation is going to include  
23 that as being reserved for something for the Commission  
24 to address at that time.

25           **MR. MAUREY:** It's being struck.

1           **MR. SAYLER:** So the issue of whether it will  
2 be CIAC or within rate base would be an issue that  
3 would be addressed at the true-up proceeding  
4 automatically, or is that something the customers or  
5 the staff of the utility would have to raise at that  
6 true-up proceeding?

7           I'm just wondering if this particular order  
8 that eventually comes out will go ahead and say that  
9 this is an issue being set aside to be addressed in the  
10 future, or if it will just remain silent.

11           **MR. MAUREY:** The customers would have to  
12 raise that as an issue.

13           **MR. SAYLER:** Thank you.

14           **CHAIRMAN BRISÉ:** Commissioner Balbis.

15           **COMMISSIONER BALBIS:** Thank you, Mr.  
16 Chairman.

17           And I want to thank staff and the parties. I  
18 think with that revision, I think it offers a good  
19 mechanism for customers to be protected with the  
20 true-up mechanism just as the construction of the tank  
21 or other infrastructure. And I think it does protect  
22 both sides and allows the utility to move forward with  
23 a project that everyone agrees needs to be done, so I  
24 think that is important.

25           And, you know, I think it gives the proper

1 attention to any land purchases. As Mr. Maurey  
2 mentioned, that customers are going to be paying for  
3 the land forever, and it doesn't depreciate. So we  
4 need to continue to focus on if the utility is going to  
5 purchase land, it's for the utility use and for the  
6 customers to benefit. Because once it's in there, it's  
7 in there forever.

8 So with that I would move staff's  
9 recommendation with the striking of that sentence in  
10 Issue 2.

11 **CHAIRMAN BRISÉ:** Okay. It has been moved.

12 Is there a second?

13 Commissioner Edgar.

14 **COMMISSIONER EDGAR:** Thank you, Mr. Chairman.

15 Yes, I would second the motion with the  
16 understanding that we are deleting the second to last  
17 sentence in the recommendation of Issue 2, and that the  
18 order will follow through on that amendment, and that  
19 the other issues, 1 and 3, are then included to be  
20 approved as they are written.

21 And with that understanding, I second the  
22 motion.

23 **CHAIRMAN BRISÉ:** All right. It has been  
24 moved and seconded. Any further discussion?

25 Seeing none, all in favor say aye.

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(Vote taken.)

**CHAIRMAN BRISÉ:** All right. Thank you very much.

With that, we stand adjourned. See you tomorrow for IA.

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STATE OF FLORIDA )

: CERTIFICATE OF REPORTER

COUNTY OF LEON )

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

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

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 30th day of November, 2012.



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JANE FAUROT, RPR  
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