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Public Service Commission

December 28, 2015

Mr. Leslie Szabo
ALTURAS UTILITIES, L.L.C.
P. O. Box 2608
Eaton Park, FL 33840-2608
Email: l.szabo@rogers.com

STAFF'S SIXTH DATA REQUEST

RE: **Docket No. 140219-WU** – Application for staff-assisted rate case in Polk County by Alturas Utilities, L.L.C.

Dear Mr. Szabo:

Staff has completed reviewing Alturas Utilities, L.L.C.'s (Alturas or Utility) customer deposit records. At this time, it appears that Alturas may be in violation of several of the provisions of Commission Rule 25-30.311, Florida Administrative Code (F.A.C.), regarding customer deposits. The apparent Rule violations are described below, along with the corrective actions Alturas must complete in order to remedy the apparent violations. By this letter, the Commission staff requests that Alturas provide responses to the following data requests.

Description of Apparent Customer Deposit Rule Violations and Corrective Action:

Commission Rules do not require utilities to collect customer deposits. However, if a utility chooses to collect Commission-approved customer deposits, the utility must do so in accordance with the Commission's rules, such as Rule 25-30.311, F.A.C., relating to customer deposits. The corrective actions discussed in this letter are intended to help Alturas bring its customer deposit records into compliance with Commission rules and regulations. In order to keep Alturas' customer deposit records in compliance going forward, Alturas must establish procedures for the regular review and maintenance of the customer deposit accounts. Those procedures should include steps such as reviewing its customer deposit records on a monthly basis in order to determine when particular customers become eligible to receive a refund of their deposit.

In Alturas' response to Staff's request for information, dated August 9, 2015, Alturas provided a copy of its customer deposit records that showed Alturas was holding a total of \$1,116.08 in customer deposits, as of July 23, 2015. Staff reviewed the records provided and found extensive errors and possible violations of Commission rules that must to be addressed immediately.

A. Rule 25-30.311(4), F.A.C – Customer Deposit Interest Payments:

Rule 25-30.311(4), F.A.C., requires that utilities pay annual interest on customer deposits at a minimum interest rate of 2% per year on residential customer deposits. However, prior to July 26, 2012, the Rule required utilities to pay a minimum interest rate of 6% per year on residential customer deposits. It appears Alturas is not in compliance with the provisions of this rule for the following reasons:

- Failing to pay annual interest on residential customer deposits from February 10, 2004 (the date the Utility was purchased by the current owner) through August 3, 2015;
- Failing to pay the correct interest rate on customer deposits;
- Failing to pay interest on customer deposits for the correct number of months; and
- Failing to pay interest on all eligible customer deposits.

1. Apparent Violation:

In Alturas' response to Staff's request for information (dated August 9, 2015), Alturas provided a copy of Alturas' Transaction Report that indicated it made interest payments on customer deposits on August 3, 2015. During a telephone conference with Staff on August 21, 2015, Alturas advised Staff that it believed the interest payments made on August 3, 2015, were the only customer deposit interest payments Alturas has made. Staff believes it is possible that a previous Alturas manager may have issued interest payments on customer deposits in the past. However, due to the Utility's lack of complete customer deposit transaction records Staff is only able review and verify the interest payment information made by Alturas on August 3, 2015.

Please note that the Alturas' responsibility to pay interest on customer deposits began on February 10, 2004, when you purchased the Utility and assumed ownership. Since Alturas does not possess complete customer deposit transaction records, Alturas must calculate and pay interest that is due on any customer deposit held by the Utility from February 10, 2004 to the present. This includes current deposits, as well as deposits that have already been refunded to customers without interest.

In addition to failing to pay interest on an annual basis, Staff also noted the following errors in the interest payment calculations made by Alturas on August 3, 2015:

- a. It appears as though all of the interest payment calculations made by Alturas were done using the current interest rate of 2%. However, any customers who paid a deposit before July 26, 2012, are entitled to receive an interest payment on their deposit at an interest rate of 6% from the date they paid the deposit up to July 26, 2012. After July 26, 2012, the customers are entitled to receive an interest payment at an interest rate of 2% for the remainder of the time Alturas held (or continues to hold) their deposit.
- b. It appears as though Alturas did not pay interest to several customers for the correct number of months owed, and was inconsistent in the methodology it used to determine how many months of interest should be paid each customer. For example, in some cases, Alturas paid interest for fewer months than were owed to the customer, yet, in other cases, Alturas paid interest for more months than were owed the customer. Although utilities are allowed to use rounding methodologies for certain calculations, the utility should be consistent in the rounding methodology the utility applies to each customer deposit account.
- c. It appears as though Alturas did not issue interest payments to all eligible customers and/or did not pay interest on all deposits that Alturas held for more than 6 months. When a utility pays annual interest, it must pay interest on every customer deposit that it has been held for more than 6 months. Although utilities are not required to make an annual interest payment on deposits that it has held less than 6 months, some utilities may choose to pay interest on all of its customer deposits at one time (including those held less than 6 months) in order to simplify the annual interest payment process. If a utility does not pay interest on customer deposits that it has held less than 6 months, the utility must remember to go back and pay interest on all of the months (including the first 6 months) the next time the utility makes an annual interest payment or when the customer closes their account, whichever comes first.

Due to the number of years involved and the change in interest rates, Staff has calculated the correct amount of interest that should have been paid on each customer deposit Alturas was holding as of July 23, 2015, in order to remedy the apparent violations and bring its customer deposit records into compliance with Commission rules.

On August 3, 2015, Alturas paid a total of \$41.20 in accrued interest on 10 customer deposit accounts. In addition to those 10 customer deposit accounts, Staff has determined that interest is also due on 7 other customer deposits currently being held by Alturas. In order to correct the calculation errors and bring its customer deposit records up-to-date through July 31, 2015, Alturas will need to pay an additional \$43.65 in accrued interest. Attachment A provides a breakdown of the additional interest that Alturas must pay on each customer deposit account by customer name.

Corrective Action and Request for Information: In order to remedy the issues described above, Alturas must perform all of the following actions by **Friday, January 15, 2016**:

- a. Issue all of the additional interest payments shown on Attachment A;
- b. Provide a copy of Alturas' interest payment Transaction Report showing that the interest payments have been made; and
- c. If any of the customers shown on Attachment A have moved and/or are no longer customers of Alturas, please provide a list of those customers, including the date the account was closed.

Future Annual Interest Payments:

As we discussed during our telephone call on August 21, 2015, the Utility should begin making annual interest payments in August of each year. Alturas' next annual interest payment should be completed in early August 2016 and pay interest from August 1, 2015 through July 31, 2016, on all of its customer deposits.

Staff's interest calculations shown in this letter include all the accounts, even those that are less than 6 months old. When Alturas makes its next annual interest payment in August 2016, Alturas may use August 1, 2015, as the starting point to calculate the annual interest on all of the customer deposit accounts, without having to go back to an earlier date to pick up any missing months.

B. Rule 25-30.311(5), F.A.C – Refund of Customer Deposits After 23 Months:

Rule 25-30.311(5), F.A.C., requires utilities to refund residential customer deposits after the customer has established a satisfactory payment record and has had continuous service for a period of 23 months. Utilities are only allowed to hold a residential customer deposit longer than 23 months if the customer has done one of the following things in the preceding 12 months:

- (1) Made more than one late payment of a bill (payment is late if payment is made more than 20 days after the date the utility mails or delivers the customer's bill);
- (2) Had a payment returned by a bank;
- (3) Had service disconnected due to nonpayment;
- (4) Tampered with the meter; or
- (5) Used service in a fraudulent or unauthorized manner.

If a utility holds a customer's deposit longer than 23 months due to one of these conditions, the utility must refund the customer's deposit as soon as the customer has completed another 12 months of satisfactory payments.

It appears that Alturas is not in compliance with this Rule for failing to refund residential customer deposits after 23 months.

1. Apparent Violation:

Staff has identified a total of 11 customer deposits that appear to have been held by Alturas for more than 23 months. Specifically, Alturas' records show that Alturas held 3 customer deposits for more than 23 months prior to issuing refunds. In addition, Alturas is currently holding 8 customers deposits that have been held more than 23 months as of July 31, 2015.

Unless Alturas can provide specific documentation that shows that a customer has met one of the 5 conditions listed above, Alturas must refund 8 deposits in order to be in compliance with Commission Rules.

The total of the 8 customer deposit accounts that appear to be due a refund is \$497.25. Attachment B provides a breakdown of the 8 deposits that appear to be due a refund at this time by customer name.

Please note, the following corrective actions are intended to bring Alturas' customer deposit records current as of July 31, 2015. Additional refunds may be necessary for other customer deposit accounts that subsequently reached the 23 month mark after July 31, 2015. Once Alturas has completed the corrective actions discussed in this letter, Staff will assist Alturas with determining which additional accounts have become eligible for a refund since July 31, 2015, in order to keep Alturas' customer deposit records current while Alturas implements its new procedures for review and maintenance of its customer deposit records.

Corrective Action and Request for Information: In order to remedy the issues described above, Alturas must perform all of the following actions by **Friday, January 22, 2016**:

- a. If any of the 8 accounts shown on Attachment B meet one of the 5 conditions listed above to allow Alturas to continue to hold the customer deposit for longer than 23 months, please provide specific documentation on each of those accounts that shows the specific condition(s) that applies to each customer and the date the condition(s) occurred.

For example, if a customer has paid a bill late 2 or more times in the last 12 months, provide the specific documentation that shows (1) when the bill payments were due and (2) when the customer paid them. Examples of acceptable documentation are Customer History Reports, Final Notices, Cutoff Notices, and bank letters regarding refused checks.

Staff will review any documentation provided by Alturas and determine if Alturas may continue to hold the deposits.

- b. Please issue a deposit refund at this time for each of the 8 customer deposit accounts that did not meet any of the 5 conditions listed above. Any customer listed in Attachment B that has maintained a satisfactory payment record for the last 12 months must be issued a refund of their deposit.
 - c. Please note that additional interest will be owed on any of the 8 deposits that are refunded. Because the interest calculations discussed in Section A above and shown on Attachment A only bring the Utility's records up-to-date through July 31, 2015, additional accrued interest will be due from August 1, 2015 through the date(s) the refunds are issued. Staff will assist Alturas in calculating the accrued interest payments for these accounts after Alturas issues the refunds.
 - d. Please provide a copy of Alturas' Current Customer Deposit Report that shows the deposit refunds that were issued to any of the 8 accounts shown on Attachment B.
 - e. Please provide a copy of Alturas' Transaction Report that shows any additional interest payments that were made to any of the 8 accounts that were refunded.
 - f. If any of the customers shown on Attachment B have moved and are no longer customers of Alturas, please provide a list of those customers, including the date the account was closed.
- C. Rule 25-30.311(6), F.A.C – Refund of Customer Deposits and Accrued Interest When Customers Discontinue Receiving Service:**

Rule 25-30.311(6), F.A.C., requires that when a customer discontinues their service from the utility, the deposit and accrued interest shall be returned promptly to the customer, no later than 15 days after service is discontinued. The Rule allows the deposit refund and any interest due on the deposit to be credited against the customer's final bill. If the deposit and interest are more than the customer's final bill, the remaining amount must be returned to the customer. It appears that Alturas is not in compliance with the provisions of this Rule for:

- Failing to refund accrued interest when refunding customer deposits; and
- Failing to refund the full amount of customer's deposit.

1. Apparent Violation:

Due to the lack of complete customer deposit transaction records, Staff is unable to verify whether Alturas paid interest on deposits that it had already refunded. Staff has identified 12 accounts with deposit refunds that should have received annual interest payments during the time Alturas held the customer deposits and an accrued interest payment when the deposits were refunded.

Staff has calculated the correct interest that should have been paid to the customer when the customer's deposit was refunded. The total amount of interest payments that is owed by Alturas on customer deposits that were already refunded for those 12 accounts is \$58.12. Alturas must refund the interest that was not paid in order to be in compliance with Commission Rules. Attachment C includes a breakdown of the \$58.12 interest due by customer name.

Corrective Action and Requested Information: In order to remedy the issues described above, Alturas must perform **all** of the following actions by **Friday, January 22, 2016:**

- a. Issue the interest payments shown on Attachment C.
- b. Provide a copy of Alturas' interest payment Transaction Report showing that the interest payments have been made.
- c. If any of the customers shown on Attachment C have moved and are no longer customers of Alturas, please provide a list of those customers, including the date the account was closed.

2. Apparent Violation:

Staff has identified 1 account that appears to have been issued an incomplete refund. The transaction description note shown in the "Memo" column of Alturas' Current Customer Deposit Report (dated July 23, 2015) indicates that a partial refund was issued to pay the account. Pursuant to Commission Rule, if any of the deposit balance remains after the deposit is used to pay the final bill, the remaining balance must be returned to the customer no later than 15 days after service is discontinued.

The remaining balance on this account has been held more than 23 months, so Staff already included the refund and additional interest payments needed to correct this account on Attachments A, B and C discussed above.

Attachment D provides the name of the customer that appears to have received an incomplete refund.

Corrective Action and Request for Information: In order to remedy the issues described above, Alturas must perform **all** of the following actions by **Friday, January 22, 2016**:

- a. Unless Alturas believes its records are not correct and the customer was in fact issued a refund of the remaining balance, please make the refund and interest payments shown on Attachments A, B and C for this customer.
- b. If Alturas believes its records are incorrect and that a full refund was issued to this customer, please provide specific documentation that shows that the customer received a payment for the remaining balance, for example: a copy of the check that was issued to the customer or other Utility documents showing that a refund of the remaining balance was made.

Staff will review any documentation provided by the Utility and determine whether additional corrections should be made to either issue a full refund or correct the Utility's deposit records.

- c. If Alturas did not issue a full refund for this account, please explain why Alturas did not issue a full refund and continued to hold the remaining balance on the account shown on Attachment D.

D. Sections 367.081(1) and 367.091(4), Florida Statutes (F.S.) – Amount of Customer Deposit

In addition to the customer deposit rules discussed above, it appears that Alturas may not be in compliance with Florida Statutes, Sections 367.081(1) and 367.091(4), for charging customer deposits in excess of the customer deposits approved by the Commission and reflected in Alturas' tariff on file with the Commission. Section 367.081(1), F.S., requires in part that a utility may only charge rates and charges that have been approved by the Commission. Section 367.091(4), F.S., states, "[a] utility may only impose and collect those rates and charges approved by the Commission for the particular class of service involved. A change in any rate schedule may not be made without Commission approval."

1. Apparent Violation:

Alturas is currently authorized to collect an initial deposit of \$65 from new residential and general service customers with a 5/8" x 3/4" meter size. Also, Alturas is authorized to collect an initial deposit of two times the average monthly bill from general service customers with meter sizes larger than 5/8" x 3/4". Staff has identified a total of 7 deposits in Alturas' records that exceed the approved \$65 deposit amount. The records indicate that Alturas previously issued full refunds for 5 of the 7 deposits. Of the remaining 2 deposits, 1 has been held more than 23 months, and 1 has been held less than 23 months. The 1 deposit that may be due a full refund for being held more than 23 months is already included on Attachment B.

The remaining 1 deposit that has been held less than 23 months is discussed in this section, and the amount of deposit collected in excess of \$65 is \$33.83.

Attachment E provides the customer name for the remaining 1 account held less than 23 months with an apparent excess deposit. It is not clear whether this is a residential or general service account. If this deposit is for an initial deposit for a new residential customer or new general service customer with a 5/8" x 3/4" meter size, Alturas is in violation of the statutes for charging an incorrect deposit. However, if this deposit was charged to a general service customer with a meter size larger than 5/8" x 3/4", or represents an additional deposit charged to an existing residential customer, Alturas may not be in violation. Additional information is needed in order to make a final determination.

Corrective Action: In order to remedy the issues described above, Alturas must perform the following actions by **Friday, January 29, 2016:**

- a. Please explain why Alturas collected more than \$65 for the account shown on Attachment E.
- b. If the deposit was an initial deposit collected from a new residential customer or a new general service customers with a 5/8" x 3/4" meter, please issue a refund of the excess amount of the deposit as shown on Attachment E. Alturas may continue to hold \$65, but must refund the excess \$33.83 plus accrued interest. .
- c. If the deposit was an initial deposit charged to a general service customer with a meter size larger than 5/8" x 3/4", or if the deposit was an additional deposit collected from an existing customer, please explain the specific reason(s) why Alturas charged the customer an additional deposit, and provide documentation that shows how Alturas calculated the amount of the additional deposit to be charged. Staff will review the documentation provided by Alturas and determine if Alturas may continue to hold the deposit, and if the deposit was calculated correctly.
- d. Additional interest will be due on any deposit that must be refunded. Because the interest calculations shown above only bring Alturas' records up-to-date through July 31, 2015, additional accrued interest will be due from August 1, 2015 through the date the refund is issued. Staff will assist Alturas with calculating the accrued interest after the excess deposit is refunded.
- e. Provide a copy of Alturas' Current Customer Deposit Report that shows the deposit refund that was issued to this customer to refund the excess amount, if the refund is issued.
- f. If the customer shown on Attachment E has moved and is no longer customers of Alturas, please provide the date the account was closed.

- g.** As noted above, Staff identified 1 account that was charged in excess of \$65 that appears to be due a full refund at this time and is addressed in Section B above. That account is for Mr. Edward Tichenor. If Mr. Tichenor is not issued a full refund, Staff will assist Alturas with determining the partial refund and additional interest that will still be needed to address the overcharge in excess of \$65 for that account.

Please file **separate** responses for each of the Sections of this request no later than the following dates:

January 15, 2016

Section A

January 22, 2016

Sections B & C

January 29, 2016

Section D

Please file the responses electronically on the Commission's website at www.floridapsc.com, by selecting the Clerk's Office tab and Electronic Filing Web Form.

Should you have any questions, please do not hesitate to contact me at (850) 413-6234 or KCorbari@psc.state.fl.us.

Sincerely,

s/ Kelley F. Corbari

Kelley F. Corbari
Senior Attorney

KFC/dml

cc: Office of Commission Clerk

ATTACHMENT A

Additional Interest Due on Current Deposits through July 31, 2015

Customer Name	Additional Interest Due on Current Deposits through 7/31/15
Clent Howard	\$1.60
David Ramirez	\$0.07
Dick Murphy	\$1.57
Geneva Hill	\$0.44
Jerry & Sarah Greek	\$4.82
Kayla Taylor (Owner)	\$0.08
Leah Sisco	\$2.18
Maria Lopez	\$9.96
Megg Investments	\$1.95
Sandra Huggins	\$5.15
Sharon Contrera	\$0.44
Sonny Register	\$3.13
Urma Lee	\$10.54
Wesley Griner	\$0.75
Yvette Martinez	\$0.96
Total Additional Interest Due on Current Deposits	\$43.65

ATTACHMENT B

Refunds Due on Deposits Held Over 23 Months

Customer Name	Refund Due
Clent Howard	\$65.00
Dick Murphy	\$65.00
Edward Tichenor	\$80.00
Jerry & Sarah Greek	\$65.00
Maria Lopez	\$65.00
Sandra Huggins	\$28.25
Urma Lee	\$65.00
Wesley Griner	\$64.00
Total Refunds Due	\$497.25

ATTACHMENT C

Interest Due on Previously Refunded Deposits through July 31, 2015

Customer Name	Interest Due on Previously Refunded Deposits through 7/31/15
B. Oleta McKinsey	\$0.69
Harold Long	\$16.93
John R. Long	\$4.99
Kenneth Smith	\$1.17
Keystone Challenge f	\$4.62
Lindsey Hutchins	\$3.12
Melanie Steedley	\$3.48
Michael Bass	\$5.24
Real Home Services	\$9.02
Rebecca Webb	\$4.96
Sandra Huggins	\$1.75
Scott Auclarie/Bridge	\$2.15
Total Interest Due on Previously Refunded Deposits	\$58.12

ATTACHMENT D

Account with Possible Incomplete Refund

Customer Name
Sandra Huggins

ATTACHMENT E

Refund of Excess Portion of Deposit Held Less Than 23 Months

Customer Name	Refund of Excess Deposit Due
Sonny Register	\$33.83