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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 150181-WU

APPLICATION FOR STAFF-ASSISTED
RATE CASE IN DUVAL COUNTY BY
NEIGHBORHOOD UTILITIES, INC.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 12

COMMISSIONERS
PARTICIPATING: CHAIRMAN JULIE I. BROWN
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ
COMMISSIONER JIMMY PATRONIS

DATE: Tuesday, November 1, 2016

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

REPORTED BY: ANDREA KOMARIDIS
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
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TALLAHASSEE, FLORIDA
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1 P R O C E E D I N G S

2 CHAIRMAN BROWN: All right. We're going to
3 Issue -- Item 12. Okay. We are on Item 12. And
4 then, we're going to move to Item 13 and circle
5 back to Item 7. So, bring it -- go for it.

6 Welcome, Mr. Johnson.

7 MR. JOHNSON: Thank you. My name is Charlie
8 Johnson on behalf -- I'm speaking today on behalf
9 of Commission staff.

10 Item No. 12 addresses Neighborhood Utilities'
11 application for a staff-assisted rate case in Duval
12 County. The recommended increase is 31.67 percent,
13 with the key drivers being rent expense and a
14 meter-replacement program. The recommendation is
15 for the approval of an increase in service rates,
16 miscellaneous service charges, and meter-
17 installation charge.

18 There has been no customer contact. And the
19 utility president, Mr. Larry O'Steen, is present
20 for today -- today's conference, as well as OPC.
21 Staff is prepared to answer any questions that you
22 may have at this time.

23 CHAIRMAN BROWN: Thank you so much. And I
24 want to thank staff for providing a little bit more
25 of a robust recommendation with the deferral.

1 Appreciate it provided additional details and that
2 was -- that was helpful to me, too. So, thank you.

3 Welcome. Would you like to address the
4 Commission or would you like to wait for Public
5 Counsel?

6 MR. O'STEEN: I can -- I can give you some
7 history on the --

8 CHAIRMAN BROWN: Mr. O'Steen, could you speak
9 into the microphone and succinctly address the
10 Commission?

11 MR. O'STEEN: Is that it? Hit that button
12 right there?

13 CHAIRMAN BROWN: It's green.

14 MR. O'STEEN: It's green? I'm okay.

15 Okay. I'm the original developer of the
16 utility in 1982, 34 years ago. I've owned and
17 managed the utility during that time. And I'm here
18 asking for your consideration and the proposed rate
19 increase and answer any questions or provide
20 additional information as you may require.

21 CHAIRMAN BROWN: Thank you, Mr. O'Steen.

22 Ms. Roth.

23 MS. ROTH: Good afternoon. I'm going to go
24 over two issues. Issue No. 11 is where I'll start.
25 And that's on Page 30 of the staff recommendation.

1 This is terms and conditions of escrow account
2 established for meter-replacement program.

3 Staff is recommending that the utility be
4 required to escrow \$1,030 every month in order for
5 the utility to replace 60 meters per year for eight
6 years.

7 In the last rate case, approved in January of
8 2010, the Commission approved pro forma expense for
9 the utility at \$5,255 a year to replace 40 meters
10 per year, in order to replace approximately
11 441 meters.

12 By this point, the utility should have
13 replaced almost 280 meters, but instead, the
14 utility has only replaced 57 meters. OPC agrees
15 with staff's recommendation on the escrow account
16 for the current meter-replacement program and
17 requests that the Commission grant two additional
18 conditions to the escrow agreement.

19 First, that the money in escrow shall only be
20 used by the utility for meter replacement; and
21 second, that OPC be notified when the utility
22 requests a disbursement from the escrow account and
23 all documentation regarding the request and payment
24 be included in the docket file.

25 And then, moving along, Issue No. 6 is the

1 next issue we wanted to speak about. On Page 21 of
2 the staff recommendation -- under staff
3 recommendation, rental of building and property,
4 staff states that the utility is currently using an
5 office free of charge, but that the business that
6 originally provided the office space to the utility
7 has since been sold and the utility has been asked
8 to move out of the space.

9 The utility's president informed staff he has
10 not signed a lease because the utility does not
11 currently have the money to pay for an office.
12 However, staff states that in the utility's last
13 rate case, which was approved in 2010, the
14 Commission approved rent expense in the amount --
15 in the amount of \$8,222 a year.

16 Customers have been paying this amount in
17 their rates. So, where has the money gone for the
18 past six years? Staff is now recommending that the
19 Commission give the utility 10,800 for rental or
20 building expense, even though the indexed amount
21 from 2010 to 2015 results in the amount of 8,968.

22 The following three considerations were not
23 addressed by staff in the recommendation, but
24 should be addressed by the Commission before making
25 any decision on this issue: First, the length of

1 time the utility has been using the free office
2 space while the customers were paying over \$8,000
3 per year for rent; second, the exact date the
4 utility is required to move out of the free office
5 space; and third, the reason the utility is unable
6 to sign a lease when it is already receiving an
7 approved annual rent expense in the amount of
8 \$8,222.

9 OPC acknowledges that rent expense is a
10 necessary cost of providing service; however, it
11 must not be ignored that the Commission has
12 allocated the utility money for rent in the past,
13 which the utility has not used for rent.

14 Therefore, OPC requests that, similar to the
15 escrow account for the meter-replacement program,
16 the utility should be required to deposit its
17 office rental expense into an escrow account where
18 the utility will not receive a disbursement for the
19 office rental until the utility has signed a lease
20 for rental of the new office space and requests
21 disbursement from the escrow account by submitting
22 paperwork demonstrating the new lease has been
23 executed.

24 And then, following up on that, on Page 17 of
25 the staff recommendation, under purchase power --

1 so, this is still Issue No. 6 -- staff cedes that,
2 during the test year, the utility did not record
3 any electric bill expense related to the utility's
4 office; however, staff used the Commission-approved
5 amount for a similarly-sized utility and the
6 results increased the purchase power expense by
7 \$1,705.

8 Similar to the issue discussed just a second
9 ago, OPC requests the additional \$1,705 should also
10 be placed into escrow with the money for the office
11 rental and disbursed only after the utility has
12 signed a lease for rental of the new office space
13 and requests disbursement from the escrow account
14 by submitting paperwork demonstrating the new lease
15 has been executed.

16 Thank you so much.

17 CHAIRMAN BROWN: Thank you, Ms. Roth.

18 Hold on one second.

19 Okay. Staff, any response to the additional
20 proposals to the escrow, given the fact that these
21 costs were already -- they were all right in rate
22 base and the utility did not use them for the
23 purposes that they were originally allocated?

24 MR. SMITH: That's correct. If you -- if you
25 go back and look at the utility's annual reports,

1 immediately after their last rate case, I think the
2 first year, they made a little bit of money and
3 then were immediately losing money. And I believe
4 it was a combination of conservation and
5 repression.

6 I believe in 2010 and 2011 in Duval County,
7 they implemented watering restrictions, which cut
8 back on the revenues and repression because of the
9 new rates. So, the unit really did not have the
10 funds to take care of that.

11 Staff was going to suggest something similar
12 to the 2013 Lake Placid docket where there was
13 language put in the order that required -- in this
14 case, it was an unfunded 401(k) plan -- a similar
15 situation where you would require the utility to
16 come back in within 90 days of the order and prove
17 that they have signed a lease and, you know, they
18 were moving into that office in order to protect
19 the customers.

20 CHAIRMAN BROWN: You think that's a better
21 alternative than putting these additional escrow
22 restrictions under Issue 11?

23 MR. FLETCHER: I believe so. I mean, the
24 Commission precedent for escrow has usually been in
25 the meter-replacement program. And when you put

1 something into escrow, the company doesn't have
2 access to those funds.

3 So, to go out there, they have to put forth
4 that initial month, the deposits for utilities.
5 And they might not have the funds because they
6 don't have access because it's in the escrow
7 account.

8 I believe it's appropriate for meter-
9 replacement programs, but something particular to
10 what Mr. Smith mentioned is a signed affidavit, an
11 executed lease within a certain time frame from the
12 order going out in this case would be sufficient.
13 And if it's not provided, staff can bring another
14 recommendation down to address the rates.

15 CHAIRMAN BROWN: Okay. Thank you. Ms. Roth,
16 Ms. Vandiver.

17 MS. VANDIVER: I just wanted to clarify -- I
18 mean, that might be a reasonable alternative, but
19 we were not asking for rent expense to be escrowed
20 month to month.

21 CHAIRMAN BROWN: Oh.

22 MS. VANDIVER: Just until the lease was
23 signed.

24 CHAIRMAN BROWN: Thank you for that
25 clarification. Okay.

1 All right, guys. Any comments or questions on
2 the -- this docket? Any suggestions? We have
3 Issues 1 through Issues --

4 COMMISSIONER GRAHAM: Five?

5 CHAIRMAN BROWN: No, I'm going to do them all.
6 Issues 1 through 19.

7 Commissioner Edgar, any questions on any of
8 those issues?

9 COMMISSIONER EDGAR: Yes, ma'am.

10 I had a question for the utility on Item 6
11 having to do with the rent. And I had some
12 discussion with staff about this, but to reiterate
13 what we've -- we've heard today that, in the last
14 rate case, \$8,000 a year was the amount allocated
15 or -- or approved for rental. And the staff, in
16 this item before us today, is recommending 10,800.

17 I guess my question is -- my understanding is
18 this is for two employees. I understand there
19 needs to be a relocation, but that this is two
20 employees. And I'm curious as to whether office --
21 actual permanent actual office space is necessary
22 for two employees or if their functions could be
23 performed, you know, at home or in -- in some other
24 way, as is more and more the case these days.

25 MR. O'STEEN: Yes, we have basically one full-

1 time employee and a part-time employee. The part-
2 time employee just comes in a couple of weekends, a
3 couple of Saturdays every month.

4 The full-time employee -- it's -- it's an
5 unusual situation because, at the time, I made a
6 deal to pay for one -- one employee's salary. And
7 in exchange for that, I got two employees plus an
8 office plus the use of the office that I was in --
9 I had one room of the -- of a bigger office, and
10 then the use of all the office and equipment in
11 there. So, it was an excellent deal for me. And I
12 took it very quickly. It saved a lot of money.

13 The other issue, you know -- well, that's a --
14 a different subject as -- but as the -- as far as
15 the meter replacements are concerned --

16 COMMISSIONER EDGAR: Actually, I -- I would
17 rather hold off on the meter replacement --

18 MR. O'STEEN: Yeah.

19 COMMISSIONER EDGAR: -- and come back to
20 the --

21 MR. O'STEEN: Okay.

22 COMMISSIONER EDGAR: -- to the rent.

23 MR. O'STEEN: To the --

24 COMMISSIONER EDGAR: Again, recognizing -- my
25 understanding is one full-time employee and one on

1 Saturdays. Is an actual office rental necessary
2 for the work functions to be performed?

3 MR. O'STEEN: The Saturday employee is not in
4 the -- in the office agreement. That's a person
5 that has worked for the utility since 1986. So,
6 she's -- she's been around for a long time. She
7 came with the utility experience. And so, we've
8 used her sparingly.

9 COMMISSIONER EDGAR: So, is a rental off- --
10 recognizing that the current space agreement
11 that -- that you have had is expiring on a go-
12 forward basis, is it necessary to rent full-time
13 space?

14 MR. O'STEEN: The business that I've been
15 sharing space with was sold last year to one of the
16 partners. It's a CPA business. The original CPA
17 formed -- was -- has been my CPA since 1982 when
18 the business was formed. I don't have that
19 relationship with the new owner. They've been very
20 kind and gracious to allow me to stay --

21 COMMISSIONER EDGAR: Sure. Great. Well, let
22 me -- if I may, then, let me toss this question to
23 staff. Is that something that you considered when
24 you were -- were reviewing the request?

25 MR. SMITH: Well, even if -- say Mr. O'Steen

1 was to use part of his home, we would allocate
2 money for that case as well because he is using it
3 for business purpose. There have been situations
4 similar to that, that I know of.

5 COMMISSIONER EDGAR: Right. Okay. Right.
6 That helps. Thank you very much.

7 CHAIRMAN BROWN: Thank you.

8 Commissioners, any other questions or comments
9 on Issues 1 through 19 on the staff recommendation?

10 I'm -- I'm just going to offer -- Commissioner
11 Brisé, before I get to you, I just want to offer, I
12 think staff's suggestion regarding the rent amount
13 coming back when they have a signed lease or
14 authenticating it, notarized -- I think that's in
15 90 days, is a -- a very good solution to making
16 sure that the comments that Office of Public
17 Counsel and concerns addressed are met. So, I just
18 want to throw that out there.

19 Commissioner Brisé.

20 COMMISSIONER BRISÉ: Sure. Just to follow up
21 on Commissioner Edgar's question: So, would the
22 allocation amount or the amount that would be
23 allocated for the rent still be the same if the
24 office was out of a home or something to that
25 effect? Or would it change?

1 MR. SMITH: It would most likely change. I
2 would imagine we would do it on a square-foot --
3 per-square-foot basis and work -- work through it
4 that way, probably -- maybe with the same amount we
5 had come up with, but we would have to evaluate
6 that.

7 COMMISSIONER BRISÉ: Sure. So, I'm going to
8 try -- try your question again.

9 Mr. O'Steen, so, do you think it's possible
10 that the office -- rather than finding a lease in a
11 place in a -- in a commercial place, that one of
12 your employees could allocate space within their
13 home to do this type of work, if it's going to save
14 money? Is that feasible within your construct?

15 MR. O'STEEN: I -- I don't think that's
16 feasible. My personal home is -- is about 30 miles
17 away from my service area. And the employee's --
18 I'm going to have to get a different employee
19 because I won't be sharing anymore. So, I -- I
20 don't think that's a feasible option. I think I
21 have to have an office.

22 COMMISSIONER BRISÉ: Sure.

23 MR. O'STEEN: I've checked recently. I have a
24 quote, which I supplied. It looks like that's
25 still available. I have looked around. There are

1 other options available for office space, if that
2 falls through.

3 COMMISSIONER BRISÉ: Thank you. And I think
4 that's fair enough.

5 CHAIRMAN BROWN: Okay. Commissioners,
6 Commissioner -- oh, Commissioner Graham.

7 COMMISSIONER GRAHAM: Are we ready for a
8 motion?

9 CHAIRMAN BROWN: Are there any other questions
10 or comments? I saw no lights. So, I think we are
11 ready for a motion now on Issues 1 through 19.

12 COMMISSIONER GRAHAM: Okay. I move staff
13 recommendation on Issue 1 through 19, adding on
14 Issue 6 that we require for the -- Mr. O'Steen or
15 somebody from the utility to come in with a signed,
16 executed lease within 90 days just to make sure
17 that that is moving forward.

18 I guess the question -- what happens if it
19 doesn't happen within 90 days? What happens to
20 that revenue that's been --

21 CHAIRMAN BROWN: Come back --

22 COMMISSIONER GRAHAM: Well, it's not
23 going into escrow right now.

24 MR. FLETCHER: The utility could state any
25 extenuating circumstances leading to any delay, but

1 what -- we would evaluate that. And my
2 understanding is, if it's not executed at that
3 time, because it is embedded in rates, we could
4 address another recommendation to the Commission,
5 if he has not had that executed.

6 There would not be a need to bring another
7 recommendation down. If he gets an executed lease
8 agreement, it would be shut at that time, the
9 issue.

10 COMMISSIONER GRAHAM: So -- so, we'll leave it
11 as a staff function unless -- for -- he's got --
12 can be certain -- he's got other circumstances for
13 why they don't have an executed lease in 90 days.

14 MR. FLETCHER: Yes.

15 COMMISSIONER GRAHAM: Okay.

16 CHAIRMAN BROWN: Okay.

17 COMMISSIONER GRAHAM: So, that's with Issue 6.
18 And with Issue 11 -- I wasn't going to make
19 any changes to that.

20 CHAIRMAN BROWN: Okay.

21 COMMISSIONER GRAHAM: Okay.

22 CHAIRMAN BROWN: We have a motion. Is there a
23 second?

24 COMMISSIONER PATRONIS: I second. And I've
25 got --

1 CHAIRMAN BROWN: Commissioner Patronis has
2 some questions -- questions.

3 COMMISSIONER PATRONIS: More just directed to
4 Mr. O'Steen. You're following everything that's
5 going on?

6 MR. O'STEEN: I'm -- I'm sorry?

7 COMMISSIONER PATRONIS: Are you following
8 everything that's going on?

9 MR. O'STEEN: I think so.

10 COMMISSIONER PATRONIS: Have you got any
11 questions?

12 MR. O'STEEN: No. You just want to see my
13 signed lease, which is no -- I don't see that as a
14 problem. I have to have that because, otherwise,
15 I'll be out on the street.

16 (Laughter.)

17 COMMISSIONER PATRONIS: Okay. Very good.

18 CHAIRMAN BROWN: Thank you, Commissioner
19 Patronis.

20 Commissioner Brisé.

21 COMMISSIONER BRISÉ: Thank you.

22 Just wanted to confirm with staff on the issue
23 of the meters and the escrow as -- as suggested by
24 OPC.

25 MR. FLETCHER: I believe the two conditions --

1 one is addressed on Page 30, the first -- excuse
2 me -- the second sentence in the first paragraph,
3 where in order to approve funds to be released, the
4 company has to submit support documentation in --
5 of the installation of the meters. It sort of
6 addresses that.

7 Unless I can get further clarification, is --
8 if another item rises where they have to pay
9 another expense, would that be what you're
10 suggesting; that it would not be spent on that
11 and -- with further clarification, yes, there could
12 be a condition on that, if that's their concern.
13 We have no problems with -- their proposed two
14 conditions be added to the nine that are reflected
15 on Page 30.

16 CHAIRMAN BROWN: Commissioner Brisé.

17 COMMISSIONER BRISÉ: Thank you. I just wanted
18 to make sure that there was some condition
19 associated with -- with making sure that the money
20 that was allocated for the meters was going to be
21 spent for that. So, I'm comfortable with -- with
22 staff's recommendation.

23 MS. CORBARI: Chairman, if OPC wouldn't mind
24 maybe restating that second condition again just to
25 make sure we're all kind of on the same page --

1 CHAIRMAN BROWN: I think we're --

2 MS. CORBARI: -- I'm -- I'm understanding it
3 correctly.

4 CHAIRMAN BROWN: No. No. No. We're go- --
5 we're okay up here at the Commission. We have a
6 motion with the staff recommendation. I believe it
7 is the direction of the staff to go with -- the
8 Commissioners to go with the staff recommendation.

9 Any other changes?

10 All right. We have a motion with a second.
11 All those in favor, say aye.

12 (Chorus of ayes.)

13 All right. The motion passes unanimously.
14 Thank you, everyone.

15 Thank you, Mr. O'Steen. Good luck in your
16 endeavors.

17 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
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same has been transcribed under my direct supervision;
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I FURTHER CERTIFY that I am not a relative,
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attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED THIS 9th day of November, 2016.



ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #EE866180
EXPIRES FEBRUARY 09, 2017