

1  BEFORE THE  
2  FLORIDA PUBLIC SERVICE COMMISSION

3      In the Matter of:

4  DOCKET NO. 20170174-SU

5      APPLICATION FOR TRANSFER OF  
6      ASSETS OF EXEMPT UTILITY,  
7      AMENDMENT OF CERTIFICATE NO.  
8      465-S, AND PETITION FOR  
9      PARTIAL VARIANCE OR WAIVER OF  
10      RULE 25-30.030 (5) (B), F.A.C.  
11      BY UTILITIES, INC. OF FLORIDA.  
12      \_\_\_\_\_ /

13      PROCEEDINGS:                  COMMISSION CONFERENCE AGENDA  
14  ITEM NO. 4

15      COMMISSIONERS  
16      PARTICIPATING:                  CHAIRMAN JULIE I. BROWN  
17  COMMISSIONER ART GRAHAM  
18  COMMISSIONER RONALD A. BRISÉ  
19  COMMISSIONER DONALD J. POLMANN  
20  COMMISSIONER GARY F. CLARK

21      DATE:                          Tuesday, October 3, 2017

22      PLACE:                          Betty Easley Conference Center  
23  Room 148  
24  4075 Esplanade Way  
25  Tallahassee, Florida

      REPORTED BY:                  LINDA BOLES, CRR, RPR  
  Official FPSC Reporter  
  (850) 413-6734

## P R O C E E D I N G S

1  
2           **CHAIRMAN BROWN:** Moving on to Item 4.

3           **MS. MAPP:** Good morning, Commissioners.

4           Kyeshia Mapp with the Office of General Counsel.

5           Item 4 is Utilities, Inc. of Florida's  
6           petition for a partial waiver of Rule 25-30.030(5)(b) of  
7           the *Florida Administrative Code*. This rule governs the  
8           noticing provisions for the utility's transfer  
9           application. Notice of the utility's request for a  
10          waiver was published within the *Florida Administrative*  
11          *Register*, and no objections were received.

12          Staff believes that the utility has alleged  
13          facts sufficient to demonstrate that strict application  
14          of the rule would cause a substantial hardship and that  
15          the underlying purpose of the statute has been met in  
16          other ways. Staff recommends approval and is available  
17          for questions.

18          Marty Friedman, on behalf of the utility, is  
19          also present and available for questions.

20          **CHAIRMAN BROWN:** Thank you. And I see  
21          Mr. Sayler is too. Welcome. Good morning. You guys  
22          are back. I would normally say it's great to see you.

23          **MR. FRIEDMAN:** Yeah, yeah, best pals.

24          **MR. SAYLER:** Good morning, Madam Chair.

25          **CHAIRMAN BROWN:** Good morning. All right.

1 Any comments that the utility or Public Counsel would  
2 like to issue before we get to questions?

3 **MR. SAYLER:** No, ma'am.

4 **CHAIRMAN BROWN:** Okay. Seeing none,  
5 Commissioners, I don't know why this item is pulled,  
6 but -- so, Commissioner Polmann.

7 **COMMISSIONER POLMANN:** Thank you, Madam  
8 Chairman.

9 I had discussion with staff on this item on a  
10 number of points, and I understand the, the waiver  
11 issue. My concern is on the adequacy of notice, the  
12 utility asserts that there is no impact or that the --  
13 certainly the impact on rates would be de minimis, I  
14 have no issue with that -- but that the notice to the  
15 existing -- I'm sorry -- the new customers has been  
16 provided, the 148 new customers, and that notice to  
17 governing bodies in the counties and municipalities has  
18 been provided. And the assertion is that that is  
19 adequate notice that there's no need to notice the  
20 34,000 existing customers; is that correct?

21 **MR. FRIEDMAN:** Yes, Commissioner Polmann, that  
22 is correct. And we also, in addition, we did publish in  
23 the newspaper as well.

24 **COMMISSIONER POLMANN:** I'm sorry, yes.  
25 My concern around this whole issue is

1 regarding customer service, and specifically on the  
2 issue that the lack of notice to all customers raises a  
3 concern about the lack of transparency or the absence of  
4 transparency across the entire customer base. And  
5 it's -- in regard to other customers lacking notice,  
6 after the fact that when that comes to their attention,  
7 that the utility has undertaken an action and that this  
8 Commission has approved the action, that something has  
9 occurred that they're unaware of, regardless of the  
10 magnitude of that action.

11 Now I understand this is relatively small in  
12 the big picture of things, but there is a potential for  
13 a diminution of trust that something is occurring that  
14 they've not been made aware of.

15 Now from my experience with this, the prior  
16 transactions and so forth, I have a big concern about  
17 trust issues across the customer base. And I understand  
18 the assertion that quality of service will not be  
19 impacted, but on this particular issue of maintaining  
20 trust and transparency across the full customer base,  
21 this raises some concern with me.

22 And staff and the utility, I think, are of a  
23 common mind that the notice that is being provided, and  
24 we've stated here a moment ago, that through those  
25 alternative means that it's adequate.

1           So I have a suggestion, and I think it can be  
2 easily accomplished, that some additional effort can  
3 broaden the notice with little to no additional expense  
4 and still not require individual mailing. So, Madam  
5 Chairman, if I could just make a suggestion that would  
6 add on --

7           **CHAIRMAN BROWN:** Go for it.

8           **COMMISSIONER POLMANN:** -- I think we could  
9 resolve the issue.

10           And what I would suggest, and it would require  
11 staff to review and approve, assuming that the board  
12 votes this forward, and that would be creating a message  
13 that you would post on the web page and also create a  
14 message that you would include with regular billing that  
15 goes out, and to, and to include that in any electronic  
16 billing that you provide that simply indicates that this  
17 has occurred. And in that context, it would, it would  
18 issue to all existing customers something similar to  
19 what's been posted in the newspapers so that there's an  
20 opportunity for all customers to simply be made aware.  
21 To the extent that they read their bill or check the web  
22 page, it's simply a broad notice made available. So I'm  
23 just suggesting that additional step.

24           **CHAIRMAN BROWN:** The utility's web page, not  
25 the Public Service Commission's web page.

1           **COMMISSIONER POLMANN:** To the utility's web  
2 page.

3           **CHAIRMAN BROWN:** Okay.

4           **COMMISSIONER POLMANN:** And then in the  
5 utility's billing, whether it's a direct bill by mail or  
6 an electronic bill, whatever it may be, that goes to  
7 existing customers to include a statement on this  
8 action. And, again, staff would review that before it's  
9 posted.

10           So my motion, Madam Chairman, would be to  
11 approve the staff recommendation with that additional  
12 step in whatever form is appropriate and authority to  
13 staff to review and approve that.

14           **CHAIRMAN BROWN:** I was going to suggest just  
15 holding off on that motion because we do have another  
16 Commissioner that has a question.

17           **COMMISSIONER POLMANN:** Yes.

18           **CHAIRMAN BROWN:** But -- if you, if you don't  
19 mind.

20           **COMMISSIONER POLMANN:** Of course.

21           **MR. FRIEDMAN:** Would you like me to address  
22 Commissioner Polmann's question?

23           **CHAIRMAN BROWN:** Sure.

24           **MR. FRIEDMAN:** Yeah, I just -- and I don't  
25 know how difficult -- obviously putting something on a

1 web page is, I think, probably easily doable. When it  
2 comes to putting a notice with the bill, then you've got  
3 questions of what notice you can put. You can't put  
4 that full notice that we put in the newspaper, and the  
5 rule requires us to have certain notices.

6 But, you know, as far as the transparency is  
7 concerned, there are lots of things that happen with  
8 utilities that never make it to other customers. I  
9 mean, every time a customer files a complaint and the  
10 utility deals with that complaint with that customer,  
11 that's something that other customers don't know  
12 happened or ever happened. There are a lot of complaint  
13 proceedings that occur. Utilities, Inc. did have one  
14 recently -- well, the recent -- the last year or so with  
15 a developer. That was something that never made it to  
16 the customer, whole customer base because there was no  
17 necessity to do so.

18 So I don't, I don't see the transparency  
19 issue. When something is de minimus as adding  
20 146 customers to a 34,000-customer utility, the system  
21 is separate and apart from -- it's not interconnected  
22 with the other system, it has no impact on, on the other  
23 33,900-and-something customers. It's just de minimis,  
24 and I don't, I don't see it as a transparency issue that  
25 you do, Commissioner Polmann.

1           **CHAIRMAN BROWN:** Commissioner Polmann.

2           **MR. FRIEDMAN:** In all respect, I disagree with  
3 you on that.

4           **COMMISSIONER POLMANN:** Thank you,  
5 Mr. Friedman, and I appreciate with all respect. So  
6 with all respect, I'll respond to that.

7           How many systems are in UIF that we addressed  
8 in the previous docket, number of systems? Was that 15?

9           **MR. FRIEDMAN:** Something, something like that.

10          **COMMISSIONER POLMANN:** Okay. And what is the  
11 smallest system? Do you recall? Number of customers.

12          **MR. FRIEDMAN:** I do not. It's the Lake Placid  
13 or Placid Lakes, and I don't remember how many it is.  
14 But it's --

15          **COMMISSIONER POLMANN:** So number, number of  
16 connections, I have some recollection, it doesn't really  
17 matter, but I thought it was in the hundreds, something  
18 to that effect. So this is a hundred --

19          **MR. FRIEDMAN:** It's certainly less than a  
20 thousand.

21          **COMMISSIONER POLMANN:** Yeah. So this is 148.

22          **MR. FRIEDMAN:** Right.

23          **COMMISSIONER POLMANN:** So it's a small system,  
24 but it's not --

25          **MR. FRIEDMAN:** It's the smallest system that



1 --

2           **COMMISSIONER POLMANN:** It's not distinctly  
3 different from one that we've dealt with in the  
4 consolidated rate case. My point being that a  
5 perspective on transparency is held by the utility, and  
6 I'll state it as plain as I can. I'm trying to be  
7 helpful to you in how you deal with -- how the utility  
8 deals in the public arena with its customers, as well as  
9 I'm trying to be helpful to this Commission in the  
10 public space doing our job to the public benefit to  
11 maintain the transparency of how we conduct our  
12 business, that the customers receive full notice. Now  
13 if you see that that's unnecessary, that's your  
14 prerogative and the utility's prerogative.

15           Now I think it's our Commission's prerogative  
16 to vote on this issue and I can put forth my suggestion,  
17 which I've done. I appreciate your opinion.

18           **CHAIRMAN BROWN:** Thank you, Commissioner  
19 Polmann, and we'll get to your motion in just a second.  
20 Commissioner Brisé.

21           **COMMISSIONER BRISÉ:** Thank you, Madam Chair.

22           So listening to Commissioner Polmann, I think  
23 there is some value in terms of the notice component and  
24 so forth. But the challenge that I see is how to most  
25 effectively and efficiently do it from an economic

1 perspective and also meeting the goal that the  
2 Commissioner is looking for.

3           So I think the website suggestion is a good  
4 suggestion. I also think that if -- rather than put it  
5 on a bill, you can put it on an IVR for a limited amount  
6 of time so that the customers are aware of the, of the  
7 notice change and so forth. So that way, you don't have  
8 to necessarily expend the capital necessary to, to  
9 address particular bills. So if that meets the intent,  
10 I think those are two functions that are relatively easy  
11 to manage for the company. It's just a matter of  
12 plugging in something.

13           And in terms of the recording, it's a simple  
14 recording adding a phrase or two, even asking the  
15 customers to take a look at the website so that they are  
16 aware of that. But I understand where you want to go  
17 with this; I just don't want to add additional burden to  
18 address it.

19           **CHAIRMAN BROWN:** Mr. Friedman, would you like  
20 to respond?

21           **MR. FRIEDMAN:** Well, again, the website, I  
22 think, is a no-brainer. I didn't understand the second,  
23 the second thing that you --

24           **COMMISSIONER BRISÉ:** So the IVR is, is the  
25 system that is used to communicate with consumers. So

1 when they call --

2 **CHAIRMAN BROWN:** I thought I was the only one  
3 that didn't know what that was.

4 **MR. FRIEDMAN:** So you're, yeah, so you're  
5 suggesting we do a, we do a robocall to all of our --

6 **COMMISSIONER BRISÉ:** No. When customers call,  
7 generally, and I don't know if this is part of the  
8 system, the system that UI employs, but generally when  
9 you call a company, there's a -- you go through a series  
10 of steps. And so once the customer puts in their,  
11 either their phone number or their account number, then  
12 they are identified by the system, and so then the  
13 system pulls up their account.

14 And so if someone from the, the utility calls  
15 the system, then they -- to pay their bill, for  
16 instance, then that notice is provided to them as a  
17 result of them reaching out to the company. And so it's  
18 just a simple matter of either, depending upon how the  
19 IVR is programmed, whether you do it by typing in a  
20 message or someone records the message onto the IVR.

21 **CHAIRMAN BROWN:** Any comment?

22 **MR. FRIEDMAN:** That, that seems to be very  
23 challenging. I mean, first of all, that -- how they  
24 actually do the complaints and handle the complaints and  
25 receive telephone calls is way above my pay grade. So I

1 don't know if what you're talking about is what they  
2 actually do and whether it is even doable. But that  
3 sounds awfully challenging to me to reprogram our, our  
4 telephone system so that it gives an automatic notice.  
5 That, to me, probably would cost more money than sending  
6 \$17,000 worth of notices out. I mean, I don't think  
7 it's as simple as it sounds because it's a technology  
8 issue. And like I say, I don't, I don't -- not handling  
9 it, so I'm not doing it.

10 **CHAIRMAN BROWN:** Okay. Mr. Friedman, thank  
11 you, thank you.

12 **MR. FRIEDMAN:** I think the, I think the  
13 website is the way to go.

14 **CHAIRMAN BROWN:** Thank you.  
15 Commissioner Brisé.

16 **COMMISSIONER BRISÉ:** So I used to own a  
17 company that was in telecom and provided IVR services,  
18 and it's just as simple as you putting a message on your  
19 phone or texting a message, providing the text, and the  
20 computer just simply reads the text. So that's not a  
21 challenging thing to do.

22 Now if you don't have a system in place that  
23 has the capability of doing that, that's a different  
24 animal. But in terms of getting your IVR to, to connect  
25 to your customers to say certain things to your

1 customers, that should not be a challenge. That's just  
2 as easy as modifying your website.

3 **MR. FRIEDMAN:** Okay. I don't know what kind  
4 of system they have, so I don't know if that's easy.  
5 And then the other question --

6 **COMMISSIONER BRISÉ:** That's a good response in  
7 terms of "I'm not aware of the way the system is  
8 designed, and so, therefore, I'm not sure that that can  
9 happen," rather than saying that the cost will be more  
10 than sending out the mailers.

11 **MR. FRIEDMAN:** And then the question becomes  
12 how long do we continue to give, just like on the  
13 website, how long do we leave the notice on the website?  
14 How long would we put this notice on this IVR system?

15 **CHAIRMAN BROWN:** Thank you, Mr. Friedman.

16 All right. We're going to bring this back to  
17 the bench and wrap this one up here. So we're ripe for  
18 a motion, and in the motion could you specify a time  
19 period for how long the notice you would like posted,  
20 along with including the recommendation of the staff.  
21 We're ready for it, Commissioner Polmann.

22 **COMMISSIONER POLMANN:** If I may, Madam  
23 Chairman, before the motion, I'll look to legal counsel  
24 on the duration of the notice. If you have any advice  
25 either to staff or to the General Counsel's Office

1 for -- and I don't know if there's a standard or if I  
2 can leave that open for determination by counsel's  
3 office.

4 **CHAIRMAN BROWN:** Would three months be  
5 acceptable?

6 **MS. MAPP:** The current noticing rule allows  
7 from the date that the notice is mailed customers are  
8 given 30 days to file an objection. So I would suggest  
9 30 days for the duration of the notice.

10 **CHAIRMAN BROWN:** Ms. Crawford.

11 **MS. CRAWFORD:** Jennifer Crawford. And if I  
12 could, just so we're kind of all thinking -- make sure  
13 we're all on the same page, if we're going to do  
14 publication on the website, this is what I would  
15 anticipate would be most analogous to how the rule and  
16 the mailing normally works.

17 Day one something gets posted on the website.  
18 The notice would contain language that you have 30 days  
19 from the date of this posting, which would be the first  
20 day it posts, to file an objection. And then have that  
21 post for 30 days on the website, after which it could be  
22 removed. Because you wouldn't want it to be appearing  
23 on the website when there's no more time possible under  
24 the rule to object.

25 **CHAIRMAN BROWN:** Commissioner Polmann, any

1 other questions on that?

2 **COMMISSIONER POLMANN:** Just a point of  
3 clarification. If it's 30 days from the first day of  
4 posting, but the posting is for 30 days, so, in fact,  
5 the duration of the objection period looks like 60 days.

6 **MS. CRAWFORD:** Well, a party could email an  
7 objection to the Commission. That could be done  
8 simultaneously on the last day of the 30 days, and that  
9 would still be within the 30-day period. In other  
10 words, I don't think --

11 **COMMISSIONER POLMANN:** So it really is the  
12 objection period closes on the 30th day.

13 **MS. CRAWFORD:** That would be my anticipation.  
14 But, again, this is untrod territory. So if the  
15 Commission believes it's more reasonable to allow an  
16 additional 30 days after that initial 30 days of it  
17 being posted runs, if you think that's more analogous to  
18 the rule, we could do that as well.

19 **CHAIRMAN BROWN:** I'm going to turn to  
20 Ms. Helton, and then Mr. Baez wants to address the  
21 Commission, or vice versa.

22 **MR. BAEZ:** I'm only going to open my mouth  
23 depending on what Mary Anne says.

24 **CHAIRMAN BROWN:** Okay. Let Mary Anne talk  
25 maybe first.

1           **MS. HELTON:** I was going to suggest if we just  
2 put the expiration period for the 30 days on the website  
3 so that it's clear that parties have that 30-day period  
4 in which to file an objection.

5           **CHAIRMAN BROWN:** Okay. Commissioner Polmann.

6           **COMMISSIONER POLMANN:** I understand what  
7 Ms. Helton said, and I support that.

8           **CHAIRMAN BROWN:** Okay. So we're ready for a  
9 motion now.

10          **COMMISSIONER POLMANN:** I would move the staff  
11 recommendation with the additional request or the  
12 additional direction for the utility to post notice on  
13 their website using language that's reviewed and  
14 approved by staff, including an expiration date for  
15 objection that's determined with staff input consistent  
16 with Ms. Helton's statement.

17          **MS. HELTON:** Which would be 30 days from the  
18 date of posting, and that would be clearly laid out on  
19 the website.

20          **CHAIRMAN BROWN:** Okay. I want to make sure  
21 that our court -- I mean, our Clerk's Office is aware of  
22 the motion and clear.

23          **MS. STAUFFER:** (Indicating affirmatively.)

24          **CHAIRMAN BROWN:** I'm a little hazy on it right  
25 now.



1 Do you want to restate it for the bench,  
2 purposes of the bench?

3 **COMMISSIONER POLMANN:** The motion is -- on  
4 Issue 1 is staff recommendation with additional notice  
5 to be posted on the utility web page, and such language  
6 on the web page to be reviewed and approved by our staff  
7 prior to publication, and the time period for objection  
8 to be -- to expire on the 30th day after the date of  
9 notice on the web page.

10 **CHAIRMAN BROWN:** Okay. Let's see if there's a  
11 second before there's additional comment.

12 Mr. Baez?

13 **MR. BAEZ:** Madam Chair, I hate to do this, but  
14 I have a question whether, whether the motion  
15 actually -- there might be some rub up against a PAA  
16 rule. I mean, I'm not, I'm not clear that the motion --  
17 the motion sounds like it's extending beyond the  
18 21 days, so that what we're creating is a 30-day  
19 protest.

20 **CHAIRMAN BROWN:** Well, let's have our legal  
21 folks --

22 **MR. BAEZ:** And I just want to make sure that  
23 your decision is clear.

24 **CHAIRMAN BROWN:** Thank you for that, Mr. Baez.  
25 Let's have our legal folks look at that. The best

1 remedy would be an expiration date as determined by  
2 staff, but --

3 **MS. HELTON:** I guess there's two different  
4 things going on here. There's the 30 -- there's the  
5 21-day period by when someone could protest our PAA  
6 order, and then there's also a time period that -- for  
7 noticing a customer's ability to object to the  
8 amendment.

9 **CHAIRMAN BROWN:** Got it.

10 **MS. HELTON:** So in my mind, the 30-day period  
11 is for objecting to the amendment. I don't think  
12 anything changes for the 21-day period to protest the  
13 PAA order approving the waiver with the conditions laid  
14 out by Commissioner Polmann.

15 **CHAIRMAN BROWN:** Sounds good to me. Is there  
16 a second on the motion?

17 **COMMISSIONER GRAHAM:** Second.

18 **CHAIRMAN BROWN:** Okay. Any further  
19 discussion?

20 Seeing none, all those in favor, say aye.

21 (Vote taken.)

22 Motion passes.

23 Commissioner Polmann.

24 **COMMISSIONER POLMANN:** My motion was on  
25 Issue 1.

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**CHAIRMAN BROWN:** Yes. Issue 2.  
**COMMISSIONER POLMANN:** Move approval.  
**CHAIRMAN BROWN:** Is there a second?  
**COMMISSIONER BRISÉ:** Second.  
**CHAIRMAN BROWN:** All those in favor, say aye.  
(Vote taken.)  
Motion passes. That's the close the docket.  
(Agenda item concluded.)

1 STATE OF FLORIDA )  
 :  
2 COUNTY OF LEON ) CERTIFICATE OF REPORTER

3  
4 I, LINDA BOLES, CRR, RPR, Official Commission  
5 Reporter, do hereby certify that the foregoing  
6 proceeding was heard at the time and place herein  
7 stated.

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

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

18 DATED THIS 9th day of October, 2017.

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