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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20130265-WU

APPLICATION FOR
STAFF-ASSISTED RATE CASE
IN CHARLOTTE COUNTY BY
LITTLE GASPARILLA WATER
UTILITY, INC.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 4

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK

DATE: Tuesday, January 9, 2018

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
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
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1 P R O C E E D I N G S

2 COMMISSIONER BROWN: And our last item today
3 at this agenda conference is Item 4. And I believe
4 we have some of the parties here to address us as
5 well.

6 MS. HUDSON: Commissioners, Shannon Hudson on
7 behalf of Commission staff. Item No. 4 is staff's
8 recommendation addressing Phase 2 rates for Little
9 Gasparilla. By Order No. PSC-14-0626-PAA-WU,
10 issued October 29th, 2014, the Commission approved
11 four pro forma plant projects including the
12 construction of an office building.

13 All projects were considered prudent and
14 reasonable; however, concern was raised in regards
15 to the cost of the construction of the building.
16 Therefore, the Commission approved the projects,
17 but determined that a final decision on the Phase 2
18 revenue requirement and rates will be made after
19 the utility completed all of the pro forma projects
20 and the costs were evaluated.

21 Little Gasparilla completed the projects in
22 February of 2017 and provided and required
23 documentation on April 28th, 2017. Staff is
24 recommending a revenue requirement increase of
25 19.23 percent for Phase 2.

1 There has been customer contact since the
2 utility -- since the Commission approved Phase 1
3 rates. The Office of Public Counsel also provided
4 letters, which staff has addressed in its
5 recommendation.

6 Utility representative, Mr. -- Mr. and
7 Mrs. Boyer are here, as well as their attorney,
8 Mr. Friedman, and the Office of Public Counsel.

9 Staff is prepared to answer any questions you
10 may have at this time.

11 COMMISSIONER BROWN: Okay. Thank you.

12 Good afternoon, Mr. Friedman.

13 MR. FRIEDMAN: Good afternoon. Thank you,
14 Madam Chairman, Commissioners. I'm Marty Friedman,
15 of Friedman and Friedman, on behalf of Little
16 Gasparilla Water Utility. With me is Jack and
17 Diane Boyer on behalf of the utility.

18 And -- and the staff recommendation is
19 acceptable to the utility, and we would just like
20 to reserve time to respond to any comments that OPC
21 or -- or the Commissioners, themselves, may have.

22 COMMISSIONER BROWN: Absolutely. And I know
23 this case has been going on for quite a long time.
24 So, if the utility would like to address us at all,
25 they are more than welcome to as well.

1 MR. BOYER: We are looking forward to the
2 conclusion. It started about eight years ago when
3 we started with the staff-assisted rate case with
4 Charlotte County, and then --

5 COMMISSIONER BROWN: I --

6 MR. BOYER: It's been awhile.

7 COMMISSIONER BROWN: I hated to defer it, I've
8 got to be honest, but --

9 MR. BOYER: And I remember you, Commissioner
10 Brown, stating that you had been to Little
11 Gasparilla.

12 COMMISSIONER BROWN: Often.

13 MR. BOYER: Yeah. Okay.

14 COMMISSIONER BROWN: And Boca Grande.

15 MR. BOYER: There you go.

16 COMMISSIONER BROWN: Yeah. All right.
17 Mr. Sayler.

18 MR. SAYLER: Happy New Year.

19 COMMISSIONER BROWN: Happy New Year.

20 MR. SAYLER: And Chairman Brown, your last
21 day, and -- for now, and Chairman Graham. Happy
22 New Year, Commissioners.

23 Good afternoon. My name is Erik Sayler. And
24 with me today is Ms. Denise Vandiver with the
25 Office of Public Counsel and on behalf of the

1 customers of Little Gaspar- -- Little Gasparilla
2 Island Utility.

3 Since you last approved Phase 1 rates, this
4 utility has experienced some extraordinary
5 growth -- since the Phase 1 rates were approved
6 October 2nd, 2014.

7 In addition, based upon the information that
8 Ms. Vandiver and I will present today, we believe
9 that customer rates should be decreased. Plainly
10 put, the Phase 2 rates being recommended by staff
11 will put this utility into an over-earnings
12 situation.

13 Since it's been three years and three months
14 since the Commission approved the Phase 1 rates for
15 Little Gasparilla, Mr. Kelly thought it would be
16 helpful if I provided a brief time line of events.
17 This docket was opened November 4th, 2013, as a
18 staff-assisted rate case. A customer meeting was
19 held July of 2014.

20 On September 22nd, staff filed their
21 recommendation recommending approval of Phase 1 and
22 Phase 2 rates for this utility. And then
23 October 2nd, 2014, the Commission voted to approve
24 Phase 1 rates, but they denied Phase 2 rates, based
25 upon concerns raised at that agenda.

1 And the Commission gave the utility 12 months
2 to complete all of the pro forma projects necessary
3 for Phase 2 rates. The Phase 1 rate increase, if
4 you recall, was a little over 25-percent rate
5 increase.

6 Over a year after the Commission's order was
7 issued, the utility requested, on December 11th,
8 its first of three extensions of time to complete
9 its Phase 2 pro forma projects. The first two were
10 granted. And then the last one was filed on
11 December 5th, 2016, with the request through
12 February of -- 28 of 2017.

13 With that brief history, Ms. Vandiver and I
14 will prevent -- present the following concerns
15 regarding staff's recommendation before you today;
16 first, the apparent failure of staff's
17 recommendation to comply with the, quote, "known
18 and measurable changes" and, quote, "matching
19 principle" set forth by the Commission's recent
20 decision in the Key West KW Resorts Utilities
21 decision.

22 Ms. Vandiver will then address specific
23 recommended adjustments that she believes should be
24 made.

25 And third, I will be addressing the lack of a

1 customer serv- -- customers -- customer meeting to
2 address quality of service, as well as some
3 apparent alleged easement issues on the islands and
4 the potential of a management audit.

5 First, we believe that the billing
6 determinants should be updated consistent with the
7 KWRU decision for known and measurable changes that
8 are representative of current utility operations,
9 as well as to conform with the Commission's
10 matching principle.

11 On Page 12 of the Key West Resorts Utility
12 final order -- I will skip the order number for
13 you -- the Commission stated: Rate-making is
14 prospective in nature, and it is this Commission's
15 practice to recognize known and measurable changes;
16 thus, if necessary, adjustments are made for known
17 and measurable changes to the test-year amounts;
18 therefore, we find that adjusting the utilities'
19 2014 test year, based upon known and measurable
20 information, is a reasonable approach to establish
21 revenue requirements and rates that are
22 representative of this utility's current
23 operations.

24 On Page 66 of that same order, the Commission
25 reaffirmed the matching principle, stating: The

1 principle matching cost and expense of the sales at
2 the center -- is at the center of the argument --
3 excuse me -- of the argument for establishing
4 correct billing determinants. The Commission
5 recognizes the need to match identifiable customer
6 growth and sales with known and measurable growth
7 in the utility's investment and expenses.

8 Considering the impacts that any growth or
9 decline in sales would have on revenues, we believe
10 that the matching principle is an important concept
11 to be observed in the rate-making process.

12 In this particular case, the biggest known and
13 measurable change for Little Gasparilla Island
14 Utility is customer growth. Since Phase 1 rates
15 were approved in October of 2014, 84 new customers
16 were added to the existing 700 and -- excuse me --
17 372 existing customers. That's a little over
18 25-percent increase in growth.

19 The only adjustment noted in staff's
20 recommendation to take into account this 25-percent
21 increase in customers was an incremental increase
22 in rate-case expense for increased noticing cost to
23 address the new customers.

24 On the other hand, staff's recommendation
25 doesn't include any adjustments for the additional

1 revenues or expenses associated with this new
2 customer growth; thus, staff's recommendation fails
3 to comply with the known and measurable changes in
4 matching principle set forth by this Commission in
5 the KWRU order.

6 These adjustments to expenses and billing
7 determinants should be made before calculating any
8 new rates for Little Gasparilla Island. Moreover,
9 we believe that these adjustments will result in a
10 rate reduction for customers.

11 In the alternative, if the Commission declines
12 to adjust the billing determinants today, any new
13 rates and revenues should be held subject to
14 review -- excuse me -- subject to refund, in order
15 to avoid Little Gasparilla Island receiving a
16 windfall that would not be detected until it files
17 its 2018 annual report in March of 2019.

18 COMMISSIONER BROWN: Mr. Sayler, may I stop
19 you, please --

20 MR. SAYLER: Sure.

21 COMMISSIONER BROWN: -- and ask you: Do you
22 have those adjustment figures for us, calculated?

23 MR. SAYLER: I'm -- actually, Ms. Vandiver is
24 going to address that right now.

25 COMMISSIONER BROWN: Okay.

1 MS. VANDIVER: Thank you, Commissioners.

2 I have several different issues; many of them
3 address areas where the utility has failed to meet
4 its burden to provide sufficient documentation.
5 But let me start first with Phase 1, the
6 documentation for the north-line extension.

7 On Page 7 of the staff recommendation, the
8 staff comments that the utility has incurred
9 \$61,000 of the originally \$86,000 -- about. I have
10 not seen that number in the documentation that was
11 provided. So, I believe that that amount should
12 not be allowed.

13 Moving on to Phase 2 documentation, Little
14 Gasparilla provided a cover page with its
15 documentation that listed 11 types of costs. And
16 there were lots of bills and invoices attached to
17 that.

18 COMMISSIONER BROWN: That's on, what, Page 11,
19 did you say?

20 MS. VANDIVER: Yes -- no. No. The cover page
21 was -- had 11 types. I -- I haven't gotten to a
22 page number on Phase 2 yet.

23 COMMISSIONER BROWN: Okay.

24 MS. VANDIVER: Those are cov- -- the Phase 2
25 documentation covers several different projects.

1 And I'm going to discuss some of those
2 individually.

3 COMMISSIONER BROWN: Do you have them
4 memorialized in one of the writings that you've
5 submitted in the record?

6 MS. VANDIVER: Yes.

7 COMMISSIONER BROWN: Can you refer us to that
8 so that we can follow it on --

9 MS. VANDIVER: It was the document I filed on
10 December 20th.

11 COMMISSIONER BROWN: Got it.

12 Commissioners, I hope you have a copy of that
13 as well? Okay.

14 Thank you.

15 MS. VANDIVER: So, as I reviewed the 11 types
16 of costs that the utilities submitted, I found that
17 a lot of the costs -- the utility failed to explain
18 how those related to the projects that were
19 submitted. And there -- I believe that there were
20 three projects that were not supported by the
21 documents that were attached. And so, as I go
22 through those, I'll mention which ones.

23 I also would like to note first that Little
24 Gasparilla filed this SARC in 2013, of course. It
25 was a Class C utility; however, the three-year

1 average of revenues since then, from 2013 to 2015,
2 has placed this utility into a Class B category.
3 And it will no longer be eligible for SARCs in the
4 future.

5 I think, as a result of that, the management
6 of the utility needs to be put on -- be held to a
7 higher standard in regard to submitting records and
8 maintaining its books and records.

9 The Commission has a rule, 25-30.110, that the
10 utility is required to furnish information when the
11 utility -- when the Commission asks for it.
12 25-30.450 requires that this information be
13 organized in a systematic and rational manner so
14 the Commission can verify the schedules in an
15 expedient manner. The utility did not do that in
16 this case. And I believe the -- it needs to be put
17 on notice that that is important in the future.

18 The first category I would like to address is
19 on Page 12. And it's -- of the recommendation.
20 It's the cost for the new utility building. Staff
21 comments that the cost was \$355,000. And in the
22 utility's summary, it includes five sets of costs.

23 My review indicates that many of these charges
24 should not be included. I'm going to address the
25 hard costs and the soft costs that the utility

1 identified.

2 The soft costs were identified as 35,464;
3 however, the documents submitted did not equal that
4 total. And the documents that were included
5 included closing costs that would be included in
6 the cost of debt. And they should not be included
7 here and duplicated.

8 Some of the documents were escrow payment and
9 legal fees with no description. And I believe
10 those should also be removed. I believe that the
11 soft costs should be reduced by \$29,032.

12 The hard costs were identified by the utility
13 as 40,242. Those also did not equal the total,
14 based on the invoices attached. There were four
15 invoices that were duplicates. There was a
16 contractor fee that should be included in the
17 contract amount. And I believe that the hard costs
18 should be reduced by 11,958. Those two together
19 would reduce the cost of the building by \$40,990.

20 And my third project in the pro forma plant is
21 a meter-replacement program. This can be found on
22 Page 13, and staff included \$56,094. I believe
23 that one invoice is missing for 13,519, and that
24 should be disallowed.

25 But there's other discrepancies that I'm

1 specifically concerned about in this category also.
2 The staff work papers seem to indicate that there's
3 an invoice for 450 meters, labor for four -- labor
4 costs for 160 meters, and the retirement of 131
5 meters.

6 So, at a minimum, I believe that the meter
7 should -- the meters for future use should be
8 removed unless the related retirement is also
9 included. I don't believe it's fair for the
10 customers today to pay for future meters unless
11 you're going to retire other meters. That
12 would re- -- and then, I also believe the 13,519
13 should be removed for lack of evidence.

14 Another issue that I have is on Page 20. The
15 staff calculated accumulated depreciation and
16 depreciation expense on plant balance that did not
17 include the adjustments that staff made for the
18 demolition costs and a refunded deposit. This
19 would result in approximately \$1,100 reduction in
20 the expense and accumulated depreciation. And a
21 similar adjustment should be made for the property
22 taxes.

23 Moving on to the capital structure, on
24 Page 15, staff makes a recommendation to increase
25 equity by 120,884. Staff bases this on five

1 amounts in its work papers, but I have not found
2 those amounts in the supporting documentation, and
3 there's no indication in the staff recommendation
4 what these are for and where they can be found. I
5 would recommend that these increases to equity
6 should also be removed.

7 Moving on to Page 17, the staff recommendation
8 increases purchase power, chemicals, and purchase-
9 water expenses by \$4,000 to remove the adjustment
10 in Phase 1 rates for excessive, unaccounted-for
11 water.

12 I specifically disagree with this adjustment
13 because, even though the utility has currently
14 reduced its excessive, unaccounted-for water, the
15 costs in the test year were higher because there
16 was excessive water in that period of time. Those
17 costs are inflated and should continue to be
18 reduced for future rates. Therefore, I believe the
19 \$4,000 should not be reduced -- or be increased.

20 Also, on Page 17 is the insurance expense.
21 The staff recommendation includes an adjustment
22 that -- based on several invoices. I did not find
23 an invoice for the amount of \$3,899, and I believe
24 that should be removed.

25 On Page 19, the staff recommendation increases

1 O & M expenses by \$15,272 for the price indexes and
2 pass-throughs that have occurred since the Phase 1
3 rates. Included in that adjustment -- or in
4 addition to that adjustment, staff increased by
5 \$424 for the effect to reinstate the excessive
6 unaccounted-for water adjustments. I believe,
7 based on my last argument, that that should not be
8 made. So, that should -- that's the four -- that's
9 only \$424.

10 And as Mr. Sayler has mentioned, we have a
11 concern with the billing determinants and the
12 revenues not being adjusted for the current growth.
13 This utility has experienced 26-percent growth,
14 which is unheard of in this day and time, but
15 mostly it's due to the mandatory connection charges
16 that have been placed on the residents of the
17 island.

18 We haven't had to deal with high growth and
19 projections for future rates, but I think, in this
20 case, it has to be addressed, not only for the sake
21 of the ratepayers, but for the sake of not putting
22 the utility in an over-earnings position.

23 The new customers billed at the proposed rates
24 will generate approximately \$106,643, which would
25 increase the utility's rate of return over the

1 range established in the capital structure on
2 Page 28.

3 As Mr. Sayler said, if these revenues are not
4 placed subject to refund, by the time the utility
5 files the rate -- annual report for this current
6 year, it will be March or April of next year, and
7 then it will take several time- -- months for the
8 staff to review the annual report.

9 And I think it needs significant review
10 because the current annual report on file has
11 expenses that are significantly higher than the
12 last order issued by you on expenses. The -- the
13 expenses have been inflated significantly, and that
14 needs to be investigated and not just taken at face
15 value.

16 With that, I'll turn my remarks back to
17 Mr. Sayler.

18 MR. SAYLER: Madam Chair, are you ready for me
19 to continue or did you have any questions?

20 COMMISSIONER BROWN: Yes, please.

21 MR. SAYLER: All right. All right. As noted
22 earlier, we had a concern that there was a lack of
23 a customer meeting in this case to address the
24 quality-of-service issues as well as the alleged
25 issues with easements on the island.

1 It's been -- as we said, it's been over three
2 years, three months since the Commission last
3 approved rates. There has been a tremendous amount
4 of growth and many new customers. And also in this
5 last rate case, this Commission determined that
6 quality of service was marginal.

7 And due to this increase in customers, and as
8 it -- also, as it relates to the extended delays in
9 completing the Phase 2 pro forma projects, this is
10 why we're here today, several years after the fact.

11 So, because of all these delays and the amount
12 of time between the last decision and this Phase 2
13 rates, we did request a customer meeting. It would
14 have allowed these customers to comment on the
15 quality of service, whether it's still marginal,
16 whether it's satisfactory.

17 It would have given customers an opportunity
18 to comment on the proposed Phase 2 rates, and also
19 to provide a forum for any customers or future
20 customers to relate any issues that they had with
21 the management of this particular utility.

22 We've already passed that opportunity for a
23 customer meeting; however, going forward, if
24 there's another situation where there's been such a
25 length of time between Phase 1 and Phase 2, a

1 customer meeting would certainly be helpful and
2 beneficial for this Commission.

3 Last, the issue of easements. I do have a
4 handout I would like to -- to pass out. Some of
5 these --

6 COMMISSIONER BROWN: All right. I will
7 have -- can somebody from staff please help assist
8 with the distribution?

9 Thank you, Cheryl -- the most-senior staff
10 member, I may -- thank you.

11 MR. SAYLER: And you may already have a copy
12 of these.

13 COMMISSIONER BROWN: We do.

14 MR. SAYLER: Okay.

15 COMMISSIONER BROWN: By the way, we have
16 received a couple of e-mails; one from Leslie Finch
17 and one from William Meyers. So, Commissioners do
18 have this.

19 MR. SAYLER: Okay. Certainly. And -- and
20 also in this packet, there's another e-mail from
21 Mr. William Cavins that was put in the docket file
22 by staff that also discusses an issue of crossing
23 property with -- without an apparent easement.

24 COMMISSIONER BROWN: Thank you.

25 MR. SAYLER: All right. Moving on with this

1 issue, it is -- in our -- excuse me -- it is
2 axiomatic that it would be imprudent for a utility
3 to trespass on private property without first
4 obtaining proper utility easements, and it follows
5 that any legal fees and other costs related to such
6 imprudent actions by a utility should not be
7 allowed to be recovered from utility customers.

8 OPC raised the issues of the high costs of
9 easements in its August letter, and then also the
10 apparent lack of easements in some instances in --
11 in our November letter to staff.

12 Our concern is that Little Gasparilla Island
13 may have installed its north-line extension across
14 private property without first obtaining all the
15 required easements from all the property owners.

16 As shown in these three letters, two of them
17 are from current property owners and future
18 customers, and one is from a current customer who
19 owns two sets of property on the island. And these
20 owners complain of instances where they believe
21 that the utility has crossed their property without
22 obtaining an easement.

23 In our November letter to the Commission,
24 staff, we requested that this utility submit
25 updated system maps showing the location of all

1 lines and meters that have been installed since the
2 Commission approved rates more than three years
3 ago. We requested a map showing the utility
4 easements that it has obtained.

5 Staff recommendation's, however --
6 recommendation, however, does not address this
7 failure to provide those system maps to the
8 Commission. These system maps are necessary so
9 that the utility can locate its own lines to be
10 able to connect new customers.

11 And secondly, if a customer dials 811 to dig
12 on their property, how are they going to know where
13 the water line is if the utility doesn't have its
14 own system maps?

15 With respect to the easements included in
16 Phase 2 rates, the recommendation includes \$21,000
17 for legal fees and the cost of obtaining what is
18 called the Puerto easement. To learn that it's the
19 Puerto easement requires looking at documents in
20 the file. That's discussed on Pages 9 and 10 of
21 staff recommendation. There's some other costs for
22 small easements that we're not disputing.

23 However, in order to acquire the easement from
24 Mr. Puerto, Little Gasparilla Island had to
25 initiate an eminent-domain proceeding for which it

1 is seeking more than \$14,000 in legal fees plus an
2 additional \$7,000 for the cost of the easement.

3 We're not necessarily disputing the 7,000 for
4 the easement. It's the legal fees that give us
5 concern because our concern is that the
6 reasonableness of these costs, whether they are
7 reasonable or they are inflated because -- did the
8 utility, in fact, cross this -- Mr. Puerto's
9 property before obtaining the rights to do so. We
10 don't know.

11 Another example is discussed on Page 10 of
12 staff's recommendation. There was an e-mail to the
13 Commission on November 28th. It was from a
14 property owner who was a future utility customer.
15 And he stated that he believed the utility crossed
16 his property without an easement.

17 Staff recommendation, however, dismisses this
18 alleged trespass because the resident, one, is not
19 a current customer; and two, because legal fees
20 associated with this alleged trespass is not
21 included as proposed Phase 2 rates.

22 We do not understand why or how such alleged
23 behavior by a utility can be ignored because such
24 action goes to the heart of the quality of service
25 and the utility's management practices.

1 In essence, ignoring such behavior now kicks
2 the proverbial can down the road to the next rate-
3 case proceeding, if and when such future legal
4 costs are disputed as it relates to obtaining
5 future easements.

6 We believe it should be addressed now before
7 any new rates are approved. And one of the means
8 the Commission has used in the past are management
9 audits to investigate these -- these things that
10 customers have raised.

11 And due to these concerns, we're asking that
12 the Commission consider that and initiate an
13 investigation or a management audit to determine
14 the following: One, why the utility has not
15 provided system maps with the location of new water
16 lines, meters, and easements to the Commission
17 staff;

18 Two, whether the utility properly obtained
19 easements from property owners before installing
20 the north-line extension and/or has incurred
21 additional costs for these imprudent actions;

22 Three, whether any additional utility --
23 utility easements are still needed for the main
24 extension project;

25 Four, how the utility -- whether the utility

1 properly informed landowners it intended to cross
2 their property before doing so;

3 And five, whether the utility is using
4 established utility easements that have been
5 surveyed for accuracy and documented.

6 In conclusion, Commissioners, we believe that
7 there are multiple adjustments that are required
8 for this utility to address our concerns, as well
9 as some serious questions to be answered regarding
10 the easements before you approve any changes in
11 rates for this utility.

12 Thank you for your attention to our lengthy
13 explanation of our concerns. We're prepared to
14 answer any questions.

15 COMMISSIONER BROWN: Thank you. And I know
16 you had a host of issues. So, I'm happy that you
17 had an opportunity to address all of those here
18 today.

19 I'm going to turn to Mr. Friedman to see if he
20 would like to respond to any of those issues that
21 were presented by OPC.

22 MR. FRIEDMAN: I will and then --

23 COMMISSIONER BROWN: And then we'll turn to
24 staff as well.

25 MR. FRIEDMAN: Okay. Thank you. I'll -- I'll

1 just try to address them on -- on a larger-overview
2 point of view, and start with -- with Mr. Sayler's
3 attempts to equate this case to the KW case. And
4 there are substantial differences between those two
5 cases that -- that make it not applicable, not the
6 least of which is that the Public Counsel in this
7 case hasn't included any additional expenses that
8 the utility may have incurred.

9 If you recall, in the KW case, while I -- I --
10 I think it was an erroneous conclusion, this --
11 the -- you at least looked at the actual expenses
12 that were incurred for some period of time and
13 tried to annualize it and -- and it -- I think -- I
14 think it turned out to be a mess, but
15 notwithstanding that, at least you -- you included
16 some expenses.

17 In the instant case, there's no including any
18 expenses, and it's -- be inappropriate to include
19 the revenue without the expenses. And in fact, as
20 you pointed out, expenses have increased since the
21 original case was filed.

22 So, I don't think -- I just don't think -- the
23 KW case doesn't apply to this case. And I think
24 it's a -- it's a -- it's improper to try to make it
25 bootstrap in -- or shoehorn into it.

1 I'm going to let -- let Mr. Boyer address --
2 the easement issue was just a -- I'm going to let
3 him address the specifics of it, but let me tell
4 you, you know, I represent a lot of utility
5 companies. And I think it's naive to think that
6 every utility has got a -- an easement for every
7 foot of line that they have. Unfortunately, the
8 business just isn't run that way, even from the
9 best to the smallest.

10 Mr. Boyer is going to tell you about the ones
11 in this case. The lines are there. And you know,
12 granted, when somebody says, okay, you can put a
13 line there -- should they have gone and gotten
14 something more formal than that? Sure. But the
15 fact -- particularly this last guy, he bought
16 the -- the house knowing there was an easement
17 there, and now he's complaining about it.

18 I would point out that -- that he concludes
19 his letter or I -- I don't -- I'm sorry. I don't
20 know whether Leslie is a man or woman -- concludes
21 the letter by saying: We're very pleased with the
22 quality of the water; just a liability issue with
23 the company crossing our land to read the meters.

24 So, this customer doesn't like them crossing
25 the land to read the meters, which I'm sure you're

1 aware that the -- the -- the rules will allow the
2 utility to cross somebody's land without being
3 trespass to read meters. This is all going to be
4 taken care of once all the meters are in place and
5 they're electronic mete- -- read, that won't be an
6 issue.

7 But the point is, it's not like they went out
8 and just haphazardly put lines in the ground
9 without having any consent from somebody to do so.
10 Maybe they haven't done the formalities they should
11 have done, but they certainly made a good-faith
12 effort to get consent to do that.

13 The management audit -- I don't understand. I
14 mean, I -- I -- the issues that he -- he's asking
15 you to address in the management audit I've never
16 seen addressed in a management audit; basically
17 wanting you to make determinations and findings
18 upon whether the company properly obtained
19 easements, whether they -- additional easements are
20 needed, properly informed the landowners -- those
21 aren't management-audit -- management audit in --
22 that I have seen in the past is when the staff
23 comes in to look at the way they operate and show
24 them how they can do better in the future; customer
25 complaints; how to deal with regulatory issues; how

1 to deal with the Commission issues. Those are the
2 kind of things that a management audit is intended
3 to do. A management audit is not intended to say
4 what they did historically in the past -- whether
5 it was right or wrong.

6 The meter replacements -- I'll just comment on
7 one thing about that -- is that -- that -- talk- --
8 they're complaining about the fact that there
9 weren't retirements, and most of those meters
10 were -- were fully depreciated anyway. So, there
11 wouldn't be any financial impact of that
12 retirement.

13 As to the actual cost of these items, I think
14 that the staff analyzed the -- the documentation
15 that was provided and -- and did a good job of
16 doing that. And I think their analysis is correct.

17 So, I would ask -- just ask if Mr. Boyer has
18 any of comments about specific issues.

19 COMMISSIONER BROWN: Mr. Boyer?

20 MR. BOYER: Yes, ma'am. Thank you.

21 First, I wish that I could take the Office of
22 Public Counsel down and show them this island.
23 Okay. It's a very unique place. And there -- when
24 we first started this 30 years ago, there were no
25 north-south easements. Okay. You came to the

1 island by boat and you went.

2 Once I reached 100 customers, I was required
3 by law to then become a regulated utility, at which
4 time, I tried to turn it over to the homeowners as
5 a not-for-profit. We couldn't get enough people to
6 sit on the board. Nobody really wanted to do that.
7 They're there for weekends and fishing.

8 Long story short, we decided that we had to
9 grow. We had to provide -- once we got a
10 franchised area, certificated area, encompassed the
11 entire island.

12 Now, it's a matter of obtaining easements to
13 go through here. We've obtained over a hundred
14 easements. These two letters that you got are --
15 are very easy to explain. Okay. We've received
16 over a hundred.

17 When we went down in 2000, we did our major
18 line expansion. And the homeowners would give the
19 easement at no cost so that their neighbor could
20 have services. Okay. Did we document each
21 easement and cost and -- and get each one of them
22 surveyed? No, we did not. They've been in the
23 ground for almost 20 years now.

24 We're with Florida Power & Light. Florida
25 Power & Light has the exact same situation where we

1 run parallel in a lot of places, and a lot of
2 places we don't.

3 These paths that run north and south -- the
4 utility had made the determination that if it's
5 going to expand, it would be good that if the --
6 the -- the fire hydrant would be in a place where a
7 fire truck could go, even though there was no
8 north-south easement, fire trucks are still on the
9 island. So, we tried to go where the cart paths
10 have been for the past 30 years. Now, a lot of
11 people have determined that these are proscriptive
12 easements.

13 The homeowner's association is going through
14 this right now, where a house is being built and
15 they're shutting down the north-south. Well, the
16 first thing that shows up is a deputy sheriff:
17 You've got to open up the road. It's not a road.
18 Well, it has been for 30 years. Okay. So, we did
19 the best we could, going through.

20 The -- the one property that this -- this
21 veteran is talking about is -- I've been dealing
22 with the gentleman called Bob Meronik -- Weronik --
23 excuse. And he had lived there for two or three
24 years and -- and we went -- I brought an attorney
25 when we went through the Jamie Puerto eminent

1 domain -- and by the way, he was not compensated
2 \$7,000. Jamie was not compensated one penny for
3 his property.

4 When the appraisal came back, it was less than
5 \$400 worth of value. And they couldn't tell if we
6 were adding value to his property or it was being
7 taken away. Every penny that was spent on that was
8 for lawyers, for the appraisal, okay, and for the
9 engineering and survey. Okay. So, nothing was
10 spent there, just like nothing has been spent on
11 these other two. Okay.

12 This is a land condo. And from what -- the
13 attorney, when we walked the property, said: Jack,
14 this is a proscriptive easement because the fire
15 department uses it, the police department uses it,
16 the -- everybody on the island uses it. Okay. You
17 can put your water line down and make them fight
18 you. I said, well, no, I can't do that. You know,
19 I need to really address them and let them know
20 what I'm going to do.

21 This is a land condo. A land condo is set up
22 for the purpose of providing essential services to
23 better serve each property owner inside this. Four
24 of them are my customers. There's only one that's
25 not.

1 And it's this gentleman that just closed on
2 this unit 30 days ago -- that I helped him close on
3 by contacting Charlotte County because he's under
4 code-enforcement law to do with the mandatory water
5 connection. There's an alternative reason to this.
6 Okay.

7 Mr. and Mrs. Finch just bought a house that
8 they closed on probably a year and a half ago. I
9 had provided service to this probably four years
10 ago -- three or four years ago.

11 And what we did is we ran an inch-and-a-half
12 line across the back of his property, the -- the
13 previous owner, who has now passed away -- the wife
14 is still -- to set the meters on the opposite side,
15 to save them costs, okay, of running the line
16 themselves; but at the same time, to be able to
17 provide service to a neighbor who would have had a
18 600-foot run. Okay.

19 And 600 feet from the meter, it -- the water
20 sits there and stagnates. It does not provide the
21 type of service that I would like to be providing.
22 Okay. I still recommend when people have not been
23 there, to flush their lines.

24 So, we've got two meters at the end of this
25 one line. And that's where we're talking about

1 Mr. Finch. And Mr. Finch knew that water line was
2 in there when he bought the property. He says that
3 in his letter, right above where he says he likes
4 their water service very well. Okay. They haven't
5 paid their water bill in almost eight months, now.
6 That's the second letter.

7 Easements, I'm very -- I think we've done a
8 great job on. The cost of the project -- we've
9 done the best we can. It's been a long project.
10 You have one customer out of all my customers,
11 okay, and -- and he still says he likes the water.

12 I do my best at customer service. When they
13 have a problem, I'm there to take care of it. And
14 I don't think you'll hear a customer here say that
15 our service is nothing but excellent, not just
16 moderate.

17 COMMISSIONER BROWN: Thank you.

18 All right. A host of issues here. Before we
19 get to staff, just a few questions real briefly for
20 the utility. If the Commission were to adjust the
21 billing determinants along -- do you think it would
22 be appropriate also to adjust the expenses as well?
23 And would the utility be --

24 MR. BOYER: It would have to.

25 COMMISSIONER BROWN: -- be opposed to doing

1 that --

2 MR. BOYER: It would have to --

3 COMMISSIONER BROWN: -- based on the amount of
4 time -- I have not -- based on the amount of time
5 that has elapsed from when this -- the original
6 order was issued to when Phase 2, now, is going
7 into effect. Do -- do you think it would be
8 appropriate to do both, like we did in KW?

9 MR. FRIEDMAN: No.

10 COMMISSIONER BROWN: Why?

11 MR. FRIEDMAN: Just because we can't do it.
12 We don't have the information today, as we sit here
13 today, to do it.

14 COMMISSIONER BROWN: Why?

15 MR. FRIEDMAN: Why? Because we don't know
16 what those expenses were for -- for whatever time
17 period -- you remember in KW what you did. And
18 like I said, it obviously turned out not to produce
19 sufficient revenues because the utility had to turn
20 around and file another rate case right away,
21 but -- but at least you had information for some
22 period of time.

23 And you decided this is the period of time --
24 and I guess it was close to the hearing time --
25 where you said we're going to cut it off here. And

1 you had the general ledger for the utility for that
2 period of time, and then you tried to annualize it
3 to come up with a number. So, at least you had
4 information to do that with.

5 We don't have the general ledger here. We
6 don't have -- have any of the sufficient
7 information --

8 COMMISSIONER BROWN: Going forward, is the
9 utility -- Office of Public Counsel raises a valid
10 point that -- that this utility is a Class B,
11 currently. So, is the utility going to adjust its
12 record-keeping practices?

13 MR. FRIEDMAN: I think now it files a Class B
14 annual report -- did you not last year?

15 MR. BOYER: I --

16 MR. FRIEDMAN: My understanding was is that --
17 is that they filed a Class -- a -- the annual
18 report for a Class B utility.

19 COMMISSIONER BROWN: Okay.

20 MR. BROWN: Chairman, they have filed as a
21 Class B.

22 COMMISSIONER BROWN: All right.

23 MR. FRIEDMAN: So, they're -- so, they are --
24 you know, as they move from -- from a small staff-
25 assisted to out of this over 300,000 -- out of

1 staff-assisted, they're -- they're going to have to
2 be more sophisticated in their record keeping.

3 COMMISSIONER BROWN: In the record keeping,
4 obviously.

5 MR. FRIEDMAN: And they're moving -- they'll
6 move towards that.

7 COMMISSIONER BROWN: And then the last
8 question, before we turn it over to staff and the
9 Commissioners -- you talk about the quality of
10 service. And these letters indicate that the --
11 that the folks are happy with the quality of
12 service and the quality of the product. You just
13 indicated that quality of service is very important
14 to you.

15 Would you be opposed to having a qual- -- just
16 a meeting with the residents to address any issues
17 that they may have?

18 MR. BOYER: I go to the annual meetings of --
19 of our homeowner's association, which is the entire
20 island. This issue was brought up at that meeting
21 to everybody. Okay. And it was mainly brought up
22 by two people that are not customers. Okay.

23 And my customers have walked up to me and
24 said, we're not in this fight. It's -- it's --
25 non-customers are the only ones you're hearing

1 from, and that's the only ones talking right here.

2 COMMISSIONER BROWN: Okay. But --

3 MR. BOYER: My customers are --

4 COMMISSIONER BROWN: So, is the answer no?

5 MR. BOYER: I -- I -- I -- again, would I
6 oppose a meeting with them? I -- I supported
7 sending a letter out to each one of my customers,
8 again --

9 COMMISSIONER BROWN: Yeah.

10 MR. BOYER: -- telling them of this meeting --

11 COMMISSIONER BROWN: It wasn't in our order.
12 It wasn't in our previous order requiring it.
13 Just, again, this is a very unique case, and
14 there's been a lot of time that's elapsed. So, you
15 know, it -- it may be one of those things you may
16 want to consider.

17 MR. BOYER: I don't oppose anything that y'all
18 request. My problem is --

19 COMMISSIONER BROWN: Good answer.

20 MR. FRIEDMAN: Don't say --

21 MR. BOYER: No. No.

22 COMMISSIONER BROWN: Now, that's a good answer
23 right there.

24 (Laughter.)

25 MR. BOYER: My problem is I need the cash to

1 start flowing.

2 COMMISSIONER BROWN: Okay.

3 MR. BOYER: That's my problem.

4 COMMISSIONER BROWN: Thank you.

5 Now, let's turn to staff to address some of
6 these issues that have been raised.

7 MR. BROWN: Good afternoon. Todd Brown with
8 Commission staff. I'll handle what I can, and I
9 think Mrs. Buys is going to answer or address some
10 system maps, and then Mr. Maurey will also address
11 one or two issues.

12 With regard to Phase 1 documentation that OPC
13 discussed, staff was -- there's plenty of
14 documentation in the file addressing the \$61,000
15 referenced in staff's recommendation for Phase 1
16 costs. And I believe that was all part of the
17 Phase 1 recommendation and discussion at agenda
18 going back.

19 There was an additional approximately \$9,400
20 regarding some of those costs in Phase 2 and --
21 which brings the total up to in excess of 70,000.
22 And then if you throw in the -- the easement costs,
23 we're up over 92,000.

24 But in short, staff believes there is ample
25 documentation in the -- in the record to support

1 the numbers that it -- it referenced in the
2 recommendation there.

3 And I'll just keep going unless you guys have
4 any questions.

5 COMMISSIONER BROWN: I don't see any lights.

6 MR. BROWN: Okay.

7 COMMISSIONER BROWN: But Commissioners feel
8 free to jump in if you have any questions on any of
9 the issues.

10 MR. BROWN: In regard to soft costs, staff --
11 staff did not include any closing costs in its
12 calculations. The soft costs that are not part of
13 the contract total represent the utility's share of
14 the total project cost. And staff believes the
15 utility has provided substantial documentation for
16 us to make the recommendation that we have and that
17 no other adjustments are necessary.

18 In regard to the hard costs, staff made
19 several adjustments for duplicate invoices and
20 items not related to the building or the meters.
21 Staff believes, again, it has provided sufficient
22 information to support the recommendation through
23 many filings and -- and data responses.

24 However, there is one cost staff agrees should
25 be removed. And I believe, based on a conversation

1 I had with the utility last week, Mr. Boyer, there
2 was a -- \$5,000 that needed to be removed from
3 those hard costs. There was a contractor fee.
4 That's one of the items that OPC brought up. And
5 after going back and looking at that, staff agrees
6 that that should be removed.

7 COMMISSIONER BROWN: And what issue would that
8 fall under, for us, so that we can --

9 MR. BROWN: That's going to be in Issue 1. I
10 think it's just going to get -- that's actually
11 going to come out of, probably, utility plant in
12 service. And so, it's going to flow through a
13 couple of other adjustments.

14 COMMISSIONER BROWN: Okay. Keep going.

15 MR. BROWN: All right. As far as the pro
16 forma utility plant-in-service meter replacement,
17 there is a slight mismatch because of how staff is
18 adding in the additional meters and the fact that
19 there are not retirements for everything. It's
20 just a mismatch.

21 I don't think there's any other way around it
22 other than it's going to get corrected at some
23 point. It's just not going to get corrected today,
24 in all likelihood, unless you choose to do
25 something different with those additional -- with

1 those additional meters.

2 Dealing with the accumulated depreciation and
3 depreciation expense --

4 COMMISSIONER BROWN: Can -- can I just stop
5 you real quick, Todd?

6 MR. BROWN: Yeah.

7 COMMISSIONER BROWN: So, I know the meter-
8 replacement program is not completed yet.

9 MR. BROWN: Correct.

10 COMMISSIONER BROWN: Do we have an estimated
11 time of when it will be -- it was supposed to be a
12 hundred meters a year, and that started in -- our
13 order was issued in 2000- --

14 MR. BROWN: I don't -- I think the order was
15 in 2014 --

16 COMMISSIONER BROWN: Okay.

17 MR. BROWN: -- initially.

18 COMMISSIONER BROWN: So, it's been -- it was a
19 hundred -- and we only have, what, a hundred and --

20 MR. BROWN: Mr. Boyer, do you know?

21 He may be a better source for actual -- the
22 count on that.

23 MR. BOYER: This was to take place after the
24 building was complete. Okay. And we started this
25 year, and we've already got 200 installed.

1 MR. FRIEDMAN: You mean last year.

2 MR. BOYER: Last year. Last year. Excuse me.
3 It's this year now. And we have not put a meter in
4 yet this year, but we hope to complete the
5 remaining 225 meters this year.

6 COMMISSIONER BROWN: How will the utility
7 record the retirements? And then -- and when are
8 you going to do that?

9 MR. BOYER: In -- and I apologize. Are you
10 talking about recording the physical asset that
11 we're taking out of it?

12 COMMISSIONER BROWN: Yeah.

13 MR. BOYER: Right now, they're in a big pile
14 in a corner. Okay.

15 (Laughter.)

16 COMMISSIONER BROWN: Not really that -- I
17 didn't really mean that.

18 MR. BOYER: We won't bury them. I promise.

19 I will take -- whatever I have to -- whatever
20 is recommended.

21 COMMISSIONER BROWN: Okay.

22 MR. BOYER: I don't understand exactly how
23 that -- they're 25 years old.

24 COMMISSIONER BROWN: Mr. Brown, how do you
25 suggest that the utility record the retirements and

1 when, moving forward?

2 MR. BROWN: I don't know that I fully -- I
3 don't know that I can tell him exactly how to do
4 it. I'm not an accountant.

5 I don't know if Andrew wants to hop in and --

6 COMMISSIONER BROWN: I -- I think we need to
7 provide some direction to the utility moving
8 forward. And that needs to be reflected in the
9 order as well.

10 Yes, Ms. Vandiver.

11 MS. VANDIVER: There is a Commission rule on
12 retirements. It's in the depreciation rule. And
13 it tells you when to retire them. And it does make
14 a difference whether they are retired because,
15 otherwise, you have depreciation expense on the
16 higher number. And that's what's being used in
17 setting rates.

18 The depreciation rule talks about retiring it
19 from plant and accumulated depreciation in equal
20 amounts. And if it's fully depreciated,
21 Mr. Friedman is right, it doesn't affect rate base,
22 but it makes a big impact on depreciation expense.

23 COMMISSIONER BROWN: Right. All right. Thank
24 you.

25 Mr. -- Mr. Maurey.

1 MR. MAUREY: We would agree that the
2 retirements should be recorded in the year the
3 meters are recorded [sic].

4 And part of the mismatch, as Mr. Brown
5 discussed -- they acquired these 450 new meters,
6 the remote-read meters, but those are the ones that
7 are being rolled out after the building was
8 completed. So, some of these meters were replaced
9 with existing meters, not the new meters yet.

10 So, to recognize all 450 meters -- because
11 they have been acquired. They are in inventory.
12 It's like plant held for future use.

13 COMMISSIONER BROWN: Uh-huh.

14 MR. MAUREY: It's -- the retirements should be
15 recorded as these new meters are put into the
16 field.

17 COMMISSIONER BROWN: Okay. And I just think
18 our order needs to be reflected to make sure that
19 the utility is aware of the rule as well as
20 complying with that.

21 All right. Please continue, Mr. Brown, if you
22 can.

23 MR. BROWN: In regards to the accumulated
24 depreciation and depreciation-expense adjustment
25 that OPC brought up, staff is in agreement that

1 that -- that adjustment needs to be made.

2 Staff inadvertently omitted those adjustments
3 from the plant balances when calculating
4 accumulated depreciation and depreciation expense.
5 So, that -- that should actually take place, and we
6 recommend that that -- that be adjusted. It ends
7 up being a reduction of about \$1500 off the --

8 COMMISSIONER BROWN: Can you direct us to what
9 issue so that we are clear when we --

10 MR. BROWN: That is also going to be -- I
11 believe it's in Issue 1. It's -- it's a catchall
12 and there's -- let me see what pages.

13 The utility --

14 COMMISSIONER BROWN: So, on Page 11?

15 MR. BROWN: I believe it's going to be part of
16 the UPIS discussion, unless the -- no, accumulated
17 depreciation is on Page 15, the discussion there.
18 And it's also going to be part of depreciation
19 expense, but I don't believe there's a specific --

20 COMMISSIONER BROWN: Okay. So, go over the
21 recommendation as modified.

22 MR. BROWN: As modified, staff believes --
23 let's see -- that demolition costs of 29,179 and
24 the refunded deposit of \$1,500 should be removed
25 from the plant balances to calculate the

1 appropriate pro forma depreciation expense --

2 COMMISSIONER BROWN: Okay.

3 MR. BROWN: -- and accumulated depreciation.

4 COMMISSIONER BROWN: All right.

5 MR. BROWN: All right. Let's see. As far as
6 insurance expense is concerned, OPC brought up an
7 issue regarding the \$3,899 of insurance expense and
8 the lack of documentation.

9 Staff believes that there's a document from
10 the insurance agent that documents the different
11 expenses the utility incurs for insurance and the
12 actual -- I think the premium package provides
13 general liability coverage and property coverage,
14 and it reflects a \$171 incremental increase over
15 the test year. And the test-year expense was
16 \$3,728, I believe.

17 So, the 3,899 references the original amount
18 plus the incremental increase, but it also
19 references several other policies, just documenting
20 those -- those yearly expenses for the utility.

21 So, staff believes that there is sufficient
22 documentation in the -- in the docket file to
23 support our recommendation.

24 COMMISSIONER BROWN: Yeah, and obviously, this
25 is an island. So, they're playing --

1 MR. BROWN: Right.

2 COMMISSIONER BROWN: -- paying an
3 exceptional -- high premium --

4 MR. BROWN: And it's important --

5 COMMISSIONER BROWN: -- a premium.

6 MR. BROWN: Yes, ma'am. And it's important to
7 note, too, that there's expense -- there's
8 insurance expense that's not included in there as
9 well. There's no auto insurance in there. And I
10 know that the utility incurs that, and that's not
11 part of our -- of our recommendation.

12 Moving to the price index and pass-through,
13 staff believes that the adjustments are -- are
14 accurate. And they're based on the actual amounts
15 removed by staff between the period of 2014 through
16 2017. I know Ms. Golden went through and pulled
17 the original -- the work papers that staff had done
18 in each of those indexes and pass-throughs. I went
19 back and looked at them also and the numbers that
20 staff has reflected in its recommendation mirror
21 those that -- that staff removed.

22 COMMISSIONER BROWN: So, that 424.25 for
23 the -- I know it's a minimal amount here, but for
24 the effect of the reinstatement of the excessive
25 unaccounted- for-water adjustment -- you don't

1 agree with the Office of Public Counsel removing
2 that amount?

3 MR. BROWN: I don't. I believe that -- I
4 believe the -- the amount should be returned to
5 the -- to the utility.

6 COMMISSIONER BROWN: Okay. Any other matters?

7 MR. BROWN: Let's see -- the capital
8 structure.

9 COMMISSIONER BROWN: The -- the system maps --
10 can you address that, please?

11 MS. BUYS: At this time, we believe that
12 updating the system maps is premature. There are
13 several residents who have not connected to the
14 system because they've got the waiver for the
15 mandatory connection.

16 And Rule 25-30.125 FAC states: The utility
17 shall maintain on file at its principal office
18 location within Florida suitable maps, drawings
19 and/or records of its system and facilities to show
20 the size, location, character, date of
21 installation, and installed cost of major items at
22 the plant and extension of facilities. So, we
23 don't think it's warranted at this time.

24 COMMISSIONER BROWN: Any comment on the
25 management-audit suggestion?

1 MR. BROWN: I don't know if Mr. Maurey has any
2 opinion on it.

3 I -- do you want me to opine on it?

4 COMMISSIONER BROWN: Or you could just say, no
5 comment.

6 MR. BROWN: I -- I actually -- I don't think
7 it's warranted, to be honest with you. Just from
8 staff's dealings with -- with the utility, I think
9 they've -- they've provided documentation. They've
10 responded to -- to staff requests when we've had
11 them. I actually believe that they are -- are --
12 are truly trying to do the right thing in serving
13 its customers. And I'll leave it at that.

14 COMMISSIONER BROWN: Mr. Maurey, you want to
15 add anything?

16 MR. MAUREY: No, ma'am.

17 COMMISSIONER BROWN: Okay. Commissioners --
18 bringing it back up here. Commissioners, do you
19 have any questions?

20 Commissioner Polmann.

21 COMMISSIONER POLMANN: Thank you, Madam
22 Chairman.

23 I thought I understood this case until it
24 started here this morning. So, I'm -- I'm
25 struggling, but I'm going to continue with my --

1 where I was yesterday and continue to understand it
2 as I understood it yesterday.

3 A few comments -- and I don't mean to be
4 negative, but let me just ask staff: The
5 information that was presented this morning by
6 OPC -- did you have this information previous to
7 this morning?

8 MR. BROWN: Some of it, we did, yes, sir.
9 Some of it was provided in a letter in December and
10 some was provided in a letter in November.

11 COMMISSIONER POLMANN: Did you receive new
12 information this morning, here today?

13 MR. BROWN: I received some information as I
14 walked in the door this -- this afternoon. And
15 that was regarding some of the -- the easements,
16 those new letters that came in today.

17 COMMISSIONER POLMANN: I would make the
18 comment, regarding easements, with nearly 20-plus
19 years -- well, I would say 20-plus years in the
20 utility business and water -- that for a utility to
21 have easements for every single piece of pipe in
22 the ground is entirely unreasonable. And I mean
23 entirely unreasonable. I have never heard of such
24 a thing. I would not expect that, under any
25 circumstance, ever.

1 Mr. Sayler, you -- you presented at length a
2 number of comments, and it was very difficult to
3 follow those because you spoke with regard to this
4 docket specifically, but on numerous occasions, I
5 understand -- I understood that you made the
6 comments in general regarding this Commission's
7 processes and procedures, and you intermixed the
8 two. I found it difficult to follow your
9 presentation.

10 MR. SAYLER: My apologies.

11 COMMISSIONER POLMANN: Thank you for the
12 apology. It was not helpful to me trying to follow
13 your presentation on this docket and take notes.
14 And it would -- it would be more helpful to us, in
15 the future, to stick to the docket when you're
16 trying to help us understand your position,
17 separate from comments regarding general items.

18 You said, for example -- I don't know the
19 particulars. You said, well, in the future, you
20 might do thus and so. You -- you might want to go
21 back and listen because I -- I can't even remember
22 particular details of what it was you were saying
23 about how we might do things in future dockets. It
24 was difficult for me to follow you. I'm just
25 giving you a comment, sir.

1 Several times, it was mentioned, moving this
2 forward with revenues subject to refund, with the
3 position of OPC being that the utility would
4 immediately be over-earning. And I would like a
5 comment from staff on that.

6 Can -- can you please explain the staff
7 position on where this utility stands in terms of
8 their earnings and -- going forward with the staff
9 recommendation, what -- what do you believe would
10 be the circumstance in terms of earnings?

11 MR. MAUREY: Thank you. This case is based on
12 a 2013 test year. And with the exception of the
13 return on deprec- -- the return on the investment
14 and the depreciation expense associated with the
15 pro forma investment and incremental increase in
16 the insurance expense directly related to that
17 investment, the amount of operating cost reflected
18 in this revenue requirement is -- for this utility
19 are based on 2013 levels.

20 For context, this utility has lost money in
21 each of the last three years. Cumulatively, over
22 this period, Little Gasparilla has lost nearly
23 \$170,000. Expressed another way, the customers
24 have received \$170,000 worth of utility services
25 that will -- they will never have to pay for.

1 In fact, even after a 25-percent increase in
2 rates following the completion of the Phase 1
3 project, the utility continued to lose money
4 operating this system.

5 Given this level of losses and recognizing
6 that the Phase 2 projects completed nearly a year
7 ago without any recognition in rates to date, it's
8 unlikely the utility will earn within its
9 authorized range in 2017. The suggestion that a
10 19-percent increase will put the utility
11 immediately into an over-earnings posture is, in
12 our opinion, misplaced.

13 There was a suggestion that the staff
14 recommendation misapplied the matching principle.
15 Simply put: This case is not analogous to the KW
16 Resort case. While I don't agree with all of the
17 characterizations of -- of Mr. Friedman about the
18 KW case, I -- I do agree that there are significant
19 differences between that case and this case. We
20 only included incremental costs associated with the
21 investment.

22 The majority of that investment is not income-
23 producing. So, what we're trying to do here --
24 it's not ideal. This is a -- we would be the first
25 to admit this is a -- not an ideal situation;

1 however, the suggestion that the Commission
2 recognize the revenue associated with these
3 additional customers without concurrently
4 recognizing the higher operating costs associated
5 with serving these customers would be even less
6 ideal.

7 COMMISSIONER POLMANN: Thank you, Mr. Maurey.
8 I would like to ask a question of
9 Ms. Vandiver. Your position is -- the statement
10 that I think you made was high growth, meaning
11 the -- the period from 2013-'14 on the island has
12 been high growth, meaning increase in customers, so
13 forth.

14 I -- I wrote down here, "High growth has to be
15 accounted for." And I'm not sure I understand what
16 "has to be accounted for" means. Is that -- is
17 that based in rule? Statute? Is that a legal
18 opinion? We can't move forward unless it's
19 accounted for?

20 MS. VANDIVER: What I mean --

21 COMMISSIONER POLMANN: Is that an accounting
22 issue? I don't quite understand your position.

23 MS. VANDIVER: I believe that if you don't
24 account for it, you are putting the company in a
25 higher level of revenues than they are allowed.

1 These customers that are new have not been included
2 in the rate-making process from Phase 1.

3 So, they're -- you're adding in all these new
4 customers with the current rates, but they
5 haven't -- but the rates haven't been spread out
6 over them. And -- and the reason I believe that
7 they would be over-earning is I'm basing it on the
8 expenses and the levels that you set, not the
9 annual reports that they're reporting.

10 I under- -- I -- I did do an analysis of
11 revenue and expenses, and I did increase it for the
12 increased purchased water for the new customers,
13 but I don't believe that just because a utility
14 says our salary expense is doubled that that should
15 necessarily be allowed, and that's why they're
16 losing money. I think it should be based on your
17 Phase 1 order.

18 And the revenues -- the expenses should be
19 spread over all the current customers, not just the
20 ones that were in place in 2013. They should be
21 recovered by all the customers; otherwise, he's
22 recovering twice from all the old customers and the
23 new customers.

24 COMMISSIONER POLMANN: But you -- you do
25 recognize -- or I'm asking: Do you recognize that

1 this case is based on 2013 as the test year?

2 MS. VANDIVER: When it's convenient. I -- I
3 don't believe that, necessarily.

4 COMMISSIONER POLMANN: Okay.

5 MS. VANDIVER: I think you've made adjustments
6 for -- if you're -- you're talking about removing
7 the excessive unaccounted-for water adjustment,
8 which is, to me, certainly well-outside Phase 2.

9 They had excessive expenses during the test
10 year, but you're willing to let them recover them
11 anyway because they -- they're doing better now,
12 but it's still included in the revenue requirement
13 that the -- the customers are going to be paying.

14 COMMISSIONER POLMANN: All right. So, you
15 have fundamental disagreements --

16 MS. VANDIVER: Yes, I do.

17 COMMISSIONER POLMANN: -- as to how we're --

18 MS. VANDIVER: Yes.

19 COMMISSIONER POLMANN: -- how staff has -- has
20 put this together.

21 MS. VANDIVER: Definitely.

22 COMMISSIONER POLMANN: Any -- any comment or
23 just leave that?

24 MR. MAUREY: (Indicating.)

25 COMMISSIONER POLMANN: All right. Thank you.

1 Madam Chairman, I think we've covered what I
2 wanted to ask. Thank you.

3 COMMISSIONER BROWN: Thank you. I appreciate
4 you asking that over-earnings question. I -- that
5 was pressing on my mind, too.

6 Commissioners, any other questions or would
7 you like to get to a motion?

8 CHAIRMAN GRAHAM: I'll --

9 COMMISSIONER BROWN: Commission- -- yeah?
10 Chairman Graham.

11 CHAIRMAN GRAHAM: Thank you, Madam Chair.

12 I can't remember if it's Ms. Buys or who said
13 the question that we shouldn't go through and
14 basically map where everything is right now because
15 we've got some people who don't have to hook up
16 yet.

17 Now, my understanding is that the last
18 exception is January 1st, 20- -- 2021. Do we want
19 to put something, like, say, six months following
20 that, they should get back to us with that
21 information?

22 MS. BUYS: We could.

23 CHAIRMAN GRAHAM: I mean, I'm asking you or
24 staff, is that something we should do or should not
25 worry about?

1 COMMISSIONER BROWN: Here comes Tom. Here
2 comes Tom.

3 MR. BALLINGER: I think the rule allows for
4 things other than maps to adequately describe where
5 facilities are. And they may have that in terms of
6 easement documents and things of that nature. So,
7 I don't know that you need to have a requirement.
8 The next time the utility comes in for a rate case,
9 we can look at what we've got; does it adequately
10 describe their service.

11 CHAIRMAN GRAHAM: Okay. See how simple that
12 was?

13 I'm ready -- ready for a motion?

14 COMMISSIONER BROWN: Yeah, I am -- we are
15 ready for a motion.

16 CHAIRMAN GRAHAM: All right.

17 COMMISSIONER BROWN: If there are no other
18 questions -- yes, Mr. Saylor.

19 MR. SAYLER: Madam Chair, I do apologize for
20 interrupting the flow, but Mr. Kelly did ask me to
21 put some remarks onto the record.

22 COMMISSIONER BROWN: Okeydoke.

23 MR. SAYLER: It appears that it's the
24 Commission's prerogative to move forward with the
25 recommendation, but one thing we would like to note

1 for the record is all the concerns that we have --
2 staff went through our December letter line-by-
3 line, word-for-word and said, well, Commissioners,
4 there's support in here, there's support in here.

5 And frankly, we would love to sit down with
6 the Commission staff and to have them show us where
7 that -- now, there are some aspects of rate-making
8 philosophy where we may agree to disagree, but when
9 it comes to actual documents that tie to actual
10 numbers that are in staff's recommendation, that
11 should be cut-and-dried.

12 Ms. Vandiver, I know, spent many hours over
13 her holiday break -- or leading up to her holiday
14 break going through this, and we still did not find
15 things to tie to some of the numbers where she made
16 recommended adjustments.

17 So, that is why we would love an opportunity
18 to sit down and know where these are --

19 COMMISSIONER BROWN: We deferred --

20 MR. SAYLER: -- but I know --

21 COMMISSIONER BROWN: I know. You know, it --
22 it is unfair to all of the parties to delay this
23 any further. I -- I'm sure staff can provide all
24 the supporting documentation. It's all public
25 record and it's all available, correct?

1 MR. BROWN: That's correct.

2 COMMISSIONER BROWN: And we are going under
3 the advisement of staff that they have met the
4 burden of proof here.

5 So, I appreciate your comments, and we'll
6 absolutely take them into consideration here, but I
7 think we should move forward with this docket.

8 MR. SAYLER: All right. Thank you for the
9 opportunity to comment.

10 COMMISSIONER BROWN: Okay. So, with that, are
11 there any other comments, anyone?

12 Seeing none --

13 COMMISSIONER CLARK: Madam Chair?

14 COMMISSIONER BROWN: Yes -- sure,
15 Commissioner --

16 COMMISSIONER CLARK: So, your comment is that,
17 I guess --

18 COMMISSIONER BROWN: Commissioner Clark, could
19 you push your button?

20 COMMISSIONER CLARK: Oh, I'm sorry. How's
21 that?

22 COMMISSIONER BROWN: That's good.

23 COMMISSIONER CLARK: Your comment that we
24 would hate to postpone this -- is there a reason
25 that -- I realize that postponing is never a great

1 idea -- but that we couldn't have another 30 days
2 to review? There's a lot of information that -- I
3 was very confused.

4 I'm going to agree with Mr. Polmann's
5 comments. No offense, Mr. Sayler, but I couldn't
6 follow what you guys were trying to explain. You
7 went through that very fast. I couldn't get to the
8 pages as fast as you were spouting numbers out to
9 do the comparison. I -- I would like to have seen
10 a better comparison between what the OPC presented
11 and what staff was -- what staff presented, a
12 better comparison.

13 I think you're right, Madam Chairman, there --
14 there are some issues there that kind of confused
15 me.

16 Mr. Sayler, your -- your term- -- terminology,
17 when we look at the rate case -- or maybe it was
18 one of you that mentioned that there may be some
19 philosophy difference, but the concepts of rate-
20 making shouldn't be any different no matter who's
21 doing the analysis. So, we should be seeing
22 some -- pretty close to the same numbers of what is
23 an allowable expense when it comes to revenue
24 requirements.

25 So, I have some concerns about just pushing --

1 I don't know how long this is case has been --

2 COMMISSIONER BROWN: It has been going
3 since -- 2015?

4 CHAIRMAN GRAHAM: Yeah, '14.

5 MR. BROWN: It's actually --

6 COMMISSIONER BROWN: 2014?

7 MR. BROWN: -- 2013 docket.

8 COMMISSIONER BROWN: 2013. Thank you.

9 Great --

10 MR. BROWN: Sure.

11 COMMISSIONER BROWN: -- points. And I
12 abso- -- I hear you loud and clear. I just -- I
13 think it's unfair -- there's a fairness argument
14 here to the utility as well.

15 So, let's go to the Commissioner Polmann.

16 COMMISSIONER POLMANN: Thank you, Madam
17 Chairman.

18 I do appreciate input from OPC. I -- I don't
19 mean to dismiss that. It -- it's always important
20 to us to hear from you because you represent the
21 people. I -- do truly appreciate your work.

22 I would ask the question this -- this way --
23 and I don't know that we have the answer. I want
24 to recognize how long this has been going on, and
25 it's been deferred already.

1 If -- and it's -- it may be simply
2 hypothetical. From my view, the question that
3 comes to my mind on -- in trying to move it forward
4 or defer it and -- and so forth, is -- not to be
5 flip -- what difference would it make in the rate?

6 If we were to take into account all of your
7 suggested changes, what difference would it be to
8 the customer if we make all the adjustments you
9 suggest? Not even knowing the answer to that, is
10 it substantive that it's worth delaying and
11 reevaluating?

12 And I suggest not; that if there is some
13 significant dollar difference to the customer, it
14 can be taken care of at some point in the near
15 future. If it's really significantly wrong, then
16 staff has done a terrible job. And that, I don't
17 accept.

18 If there's differences of opinion, if there's
19 different ways to interpret it, I understand that,
20 but if it's way out of the ballpark, then something
21 is significantly incorrect. And we're looking at
22 apples and oranges. And it's really, really
23 difficult for me to believe that.

24 So, I'll have to support the staff
25 recommendation and I'll have to agree with the

1 Chairman. I think it's time to move this thing
2 forward.

3 And if it has to come back again, then let's
4 look at it again when there's meaningful
5 differences that have to be addressed. You know,
6 if we have to look at it as a -- as a Class B, then
7 we'll do it.

8 But I think it's time to move this forward.
9 Thank you.

10 COMMISSIONER BROWN: Thank you, Commissioner.
11 And thank you for your support on that.

12 Chairman Graham.

13 CHAIRMAN GRAHAM: I didn't know if staff was
14 going to comment on that or --

15 COMMISSIONER BROWN: Mr. Brown?

16 MR. BROWN: I can if you would like me to.

17 I think what OPC is requesting is a little
18 unheard of. I don't think we've been in a posture
19 like that before when they -- I honestly don't know
20 what to say about it.

21 I mean, this doc- -- this case has been going
22 on for a long time. Documentation -- utilities
23 provided a ton of support. I know my staff that's
24 been assigned to this docket has spent -- I -- I
25 can't even begin to count the number of hours

1 they've spent going through these documentation --
2 the documentation that's been provided and -- and
3 writing this recommendation.

4 I -- I think the differences in opinion that
5 we have today are probably going to be differences
6 in opinion a month from now or two months from now.
7 I think staff has done the absolute best it could
8 with the information that it was provided by
9 utility, and I think what we've recommended is --
10 is fair.

11 COMMISSIONER BROWN: Thank you. I think you
12 articulated that very well. And -- and that is why
13 I think that we should move forward with this.

14 Chairman Graham.

15 CHAIRMAN GRAHAM: Okay. So, we're going to
16 move staff recommendation on all issues. We need
17 to make sure that we remove the 29,179 demolition
18 costs, the \$1,500 deposit.

19 MR. BROWN: That's correct. And we also have
20 a 5,000 --

21 COMMISSIONER BROWN: \$5,000 --

22 CHAIRMAN GRAHAM: \$5,000 contractor fee.

23 MR. BROWN: Yes, sir.

24 CHAIRMAN GRAHAM: Okay. So, those are the
25 three dollar amounts that we're talking about

1 making changes to.

2 MR. BROWN: Those are the ones that I'm aware
3 of, yes, sir.

4 CHAIRMAN GRAHAM: Okay. And everything else
5 that kind of carries through as that gets
6 calculated out.

7 MR. BROWN: That's correct.

8 COMMISSIONER BROWN: Okay. Is there a
9 second -- thank you.

10 Is there a second?

11 MR. MURPHY: Chairman?

12 COMMISSIONER BROWN: Yeah.

13 MR. MURPHY: I'm sorry. I believe you also
14 were going to require a reference to depreciation
15 of the meters and a reference to the order -- to
16 the rule in the order.

17 COMMISSIONER BROWN: I think that's --

18 CHAIRMAN GRAHAM: Yes.

19 COMMISSIONER BROWN: -- reflected in the
20 discussion here. Yeah -- right? Does it need to
21 be part of the motion? No.

22 MR. BROWN: I don't believe so. I think we
23 can capture that language when we -- when we put
24 together the order.

25 COMMISSIONER BROWN: Great.

1 Chairman Graham, thank you.

2 Is there a second?

3 COMMISSIONER POLMANN: Second.

4 COMMISSIONER BROWN: Is there discussion? Any
5 further discussion?

6 All those in favor, signify by saying aye.

7 (Chorus of ayes.)

8 COMMISSIONER BROWN: Opposed?

9 COMMISSIONER CLARK: Aye.

10 COMMISSIONER BROWN: All right. Motion passes
11 three-one.

12 That will -- thank you for your participation.

13 And thank you --

14 MR. SAYLER: Thank you.

15 COMMISSIONER BROWN: -- for all of your
16 efforts here and for enduring several years on this
17 matter.

18 MR. SAYLER: Thank you very much.

19 COMMISSIONER BROWN: Thank you.

20 So, that will conclude our agenda conference.

21 The time is 2:45. We will meet in the internal
22 affairs room at 2:55, which will be led by Chairman
23 Graham.

24 This meeting is adjourned. Thank you.

25 (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
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 18th day of January, 2018.



ANDREA KOMARIDIS
NOTARY PUBLIC
COMMISSION #GG060963
EXPIRES February 9, 2021

Meeting today

Lesley Finch <lesley747@gmail.com>

Tue 1/9/2018 11:51 AM

Parties	Staff	Handout
Internal Affairs		Agenda
on 1 / 9 / 18		
Item No.		4

To:jvarian@psc.state.fl.us <jvarian@psc.state.fl.us>;

Cc:Sayler, Erik <SAYLER.ERIK@leg.state.fl.us>;

We have received a notification email that the PSC requires information regarding discrepancy with water utility crossing private property without an easement.

The privately owned Little Gasparilla Water Utility needed to go from the south end of the island to the north end crossing many private properties. When the water company crossed 8280 LGI the agreement to cross there was a monetary payment plus promise of water hook up to the said property. The water line continued north then turned east and then north again at that turning a smaller water main continued east on the south side of the lane, which is the north side of our property. 8276 LGI

In the year 2015 we paid \$2600 + for a title insurance the only easement that showed up at the closing was the 10' utility easement which has always been in place.

In the deed a 10 ft utility easement on the north side of the property was granted.

The private water utility headed back south dissecting our personal property with yet a smaller water main for approximately 90 ft. For your information the water main already crosses #8280, the only reason to put a south water main is to fulfil water hook up to #8280. Their water meter should be located in their water easement not on this private property #8276.

The Utility crossed through another section of our property where there is **no easement**, not only for service to us #8276 also through **our** property for #8280 and the meters for us and the neighbor are clearly on our property with one shut off valve before the two meters. So if I shut off my service to the house when it is vacant 5 months it shuts off the neighbors house also.

Before purchasing the property we spoke to the two previous owners who confirmed there is no easement and as mentioned we also spend money for a title insurance which showed no easement.

We are very pleased with the quality of the water, just have liability issues with the Utility company crossing our land to read meters, they should be in the easements.

Lesley M Finch
Sole Owner of 8276
585-880-2844

Brandy Butler

From: William Cavins <wrcavins@gmail.com>
Sent: Monday, December 04, 2017 4:59 PM
To: Consumer Contact
Subject: Little Gasparilla Water Utility

I am a new owner at 8062 Little Gasparilla Island. Through out this water utility issue on the island my spouse's family has opposed the process from installing pipes on private property to the excessive rates and the hook up fee charged.

In speaking with Tara in the Charlotte County Property Appraiser's Office today, 4 Dec 2017, she indicated she could not find any easements on our property. Yet, LGWU installed pipes and a back flow valve which discharges onto our dune.

Until LGWU clears the easement issue no further rate hikes should be granted. FPL got easements LGWU should too.

Sincerely,
William R Cavins

Brandy Butler

From: Ruth McHargue
Sent: Tuesday, December 05, 2017 4:44 PM
To: Consumer Correspondence
Cc: Diane Hood
Subject: FW: To CLK for docket 20130265
Attachments: Little Gasparilla Water Utility

Customer correspondence

From: Angie Calhoun
Sent: Tuesday, December 05, 2017 4:18 PM
To: Ruth McHargue
Subject: To CLK for docket 20130265

Customer correspondence for docket 20130265.

Little Gasparilla Island

william.meyers@comcast.net

Tue 1/9/2018 12:25 PM

To: jvarian@psc.state.fl.us <jvarian@psc.state.fl.us>;

Cc: Sayler, Erik <SAYLER.ERIK@leg.state.fl.us>;

To Whom It May Concern,

My apologies for this late submission of which I am respectfully requesting to be included in discussions regarding water utility matters on Little Gasparilla Island.

Each parcel of land on Little Gasparilla Island is unique as are its residents. Utility easements follow suit so it is imperative that an in-depth discussion and an outside-the-box approach be taken to resolve existing and future conflicts. The property I own is part of a land condominium that includes common property with shared ownership overseen by an association, which I now serve as president over. Our land extends from the beach to the bay, which is the entire width of the island. Our common property was crossed by Mr. Boyer's company to provide other parts of the island with water. My information indicates that he was warned not to do so without consent, a legal easement or a court ordered eminent domain declaration. The previous association president, Bob Weronik, funded a multi-year legal battle regarding this issue prior to selling his property to me. It was been explained to me that Mr. Boyer acknowledges that he crossed the property but contends that he did not need permission to do so. I have yet to find an appropriate and legal explanation that would give Mr. Boyer the ability to take private property. Other islanders have also discovered illegal crossings and are currently pursuing legal remedies and the PSC should expect to see a significant increase of legal contentions regarding these crossings.

As a retired Marine Corps veteran, I gave years of my life and my health to defend our American way of life. Allowing someone to take private property such as Mr. Boyer has done was certainly not in the oath I took. If the PSC grants Mr. Boyer the right to recover legal expenses associated with these seemingly illegal actions then what or who will be next? Taking private land and being reimbursed for it at the expense to other residents through rate increases is simply wrong. A private for-profit business using the PSC and county as a strong-arm strategy against private property simply paves the way for future malicious and illegal acts. I do not believe that the PSC nor Charlotte County want to be caught in the middle of funding such nonsense by Mr. Boyer or anyone else in the future.

I've spoken with Mr. Boyer on multiple occasions and each time given one another a high level of mutual respect. Personally, I find him to be a nice guy, enjoyed chatting with him and I realized that he is a businessman at the end of the day. I did sense a complete lack of respect for private property rights from him, though, which is a grave concern. We simply cannot allow private businesses to abuse government resources as a means to earn a dollar.

Allowing private rights to be taken and then forcing those stripped of their rights to pay for it is as un-American as it gets. The pain I live with everyday from my service to this country makes me shake my head when I see such rights taken away without a care in the world. I hope that the PSC understands the weight of this situation and what it means to the future not only for LGI but all Americans. I urge you to do the right thing and not chip away at our American pride.