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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20180202-SU

APPLICATION FOR
STAFF-ASSISTED RATE CASE IN
POLK COUNTY BY WEST
LAKELAND WASTEWATER, LLC.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 13

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

DATE: Tuesday, November 5, 2019

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

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

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

2 CHAIRMAN GRAHAM: All right. So, next thing
3 on the agenda will be Item No. 13.

4 MR. BETHEA: Good morning, Commissioners.
5 Terence Bethea on behalf of staff.

6 Item No. 13 is an application for staff-
7 assisted rate case by West -- West Lakeland
8 Wastewater, LLC. West Lakeland is a Class C
9 wastewater-only utility providing service to
10 approximately 315 residential customers and one
11 general-service customer in Polk County. West
12 Lakeland's last rate case was a limited proceeding
13 and was approved in 2014.

14 West Lake- -- West Lakeland wants to recover
15 costs associated with legal fees from a prior case,
16 plant investment, and the installation of shutoff
17 valves. Staff is recommending a rate increase of
18 2.43 percent. Staff applied the recommended
19 percentage increase across the board to existing
20 rates.

21 There was customer contact. The utility
22 owner, Small- -- Michael Smallridge, and OPC are
23 present. Staff is available for any questions you
24 may have.

25 CHAIRMAN GRAHAM: Thank you, staff.

1 Let's start with OPC, then I'll go to
2 Mr. Smallridge.

3 Mr. Smallridge.

4 MR. SMALLRIDGE: Good afternoon,
5 Commissioners. I'm here to answer any questions
6 anybody has. I'll do the best I can.

7 CHAIRMAN GRAHAM: Ms. Christensen, looks like
8 you're coming up.

9 MS. CHRISTENSEN: Just briefly, we -- we
10 reviewed this and we didn't have any issues. So,
11 we're available to address any concerns the
12 Commission may raise.

13 CHAIRMAN GRAHAM: Okay. Commissioners.
14 Commissioner Polmann.

15 COMMISSIONER POLMANN: Thank you,
16 Mr. Chairman.

17 I've reviewed this with staff. I have no
18 issues with the staff recommendation, and I would
19 move approval of all issues.

20 CHAIRMAN GRAHAM: There's another light on.
21 Let's hold that for a second.

22 COMMISSIONER POLMANN: Yes, sir.

23 CHAIRMAN GRAHAM: Commissioner Brown.

24 COMMISSIONER BROWN: Appreciate that.

25 I don't have a problem with the rate request

1 being -- that is being requested at all. I do have
2 a question for -- for Mr. Smallridge, but -- and
3 legal staff regarding Issue 1. So, I'm going to
4 first turn to our staff on Issue 1 and Issue 2.

5 And I think this may go to something that
6 Chairman Graham has been very interested -- when we
7 looked at this rule -- and you know, I believe it
8 was initiated, kind of the discussion, when we
9 amended it. Chairman Graham want- -- want- -- it
10 was his intention -- you can speak yourself -- but
11 to broaden it to allow the Commission to
12 incorporate DEP complaints for consideration.

13 So, the rule -- with -- this is the second
14 time that we've seen it on the wastewater side.
15 It -- it tends -- the way that you have separated
16 the quality-of-service issue, it tends -- seems to
17 be more narrow dealing with quality of service and
18 customer satisfaction rather than dealing with
19 management and operations like we used to be able
20 to consider when we amended this rule. This is,
21 again, the second time we're seeing it.

22 It looks like you're -- you're really
23 narrowing it because now we're only considering the
24 utility's ability to meet customer satisfaction,
25 attempt it for customer satisfaction, and whether

1 they're in compliance with DEP.

2 And I just remember the discussion that
3 Chairman Graham was instrumental in at least having
4 and saying, let's look at this rule, let's see,
5 because we want to be able to consider a lot of
6 different things in dealing with quality-of-service
7 issues, including managerial, operations, et
8 cetera.

9 That -- there's nowhere in your recommendation
10 that we -- not that you have any operational
11 problems. I'm -- it -- it's more of a
12 philosophical question, Mr. Smallridge -- I feel
13 like you have narrowed the scope of our --

14 MR. BALLINGER: Sorry, Keith came and got me,
15 so I -- I can blame him.

16 Yes, this rule was -- was changed to direct
17 that away because, before, we had a case where we
18 had utility management. The way they were reacting
19 to other regulators, responsive to DEP or water
20 management districts, came up as a quality of
21 service. And it was pointed out that that's really
22 not a result of the product; it's management
23 actions. And that's why we tried to separate out
24 the parts in the rule.

25 COMMISSIONER BROWN: Where could we go to

1 management -- if -- if -- not that it's an issue in
2 this docket, but --

3 MR. BALLINGER: I think that would be in
4 the -- are they in compliance with DEP regulations.
5 So, are they --

6 COMMISSIONER BROWN: Not the way it's analyzed
7 currently. The -- it doesn't talk about anything
8 of that nature.

9 MR. BALLINGER: But if they are in compliance
10 with DEP, then they are meeting the regulations
11 applied by DEP. Where we had the case before,
12 there was consent orders, and the utility was
13 ignoring them, basically, and delaying things. And
14 that's what we found was an issue.

15 So, if that similar situation happened again,
16 it would happen in that second part of the rule.

17 COMMISSIONER BROWN: The way that you now are
18 structuring these issues, though, it says, is the
19 infrastructure and the condit- -- operating
20 conditions of West Lakeland wastewater system --
21 the actual system -- in compliance with DEP.

22 MR. BALLINGER: Yes, ma'am, because that goes
23 to the quality of product that the customer is
24 actually seeing. So, if they're meeting the -- the
25 conditions of DEP --

1 COMMISSIONER BROWN: That's not managerial,
2 though, con- --

3 MR. BALLINGER: No, but it can be addressed
4 there because they would have to be in compliance
5 with DEP.

6 COMMISSIONER BROWN: I just don't know if that
7 was the intent of the Chairman. I -- it seems in
8 the analysis that -- this is the second time,
9 again, that we've seen it. It just seems the
10 analysis has been a lot more focused and limiting
11 and -- and I thought that the intent was to give us
12 more latitude in reviewing the quality of sa- --
13 satis- -- quality of satisfaction.

14 MR. BALLINGER: My understanding is quality of
15 service is what the customer is seeing. So, for
16 water, you have the product, you have the primary,
17 secondary standards. For wastewater, you don't
18 have a -- a quality of product. It's not there --

19 COMMISSIONER BROWN: Right.

20 MR. BALLINGER: -- but you have customer
21 satisfaction and -- in response to complaints.

22 The other infrastructure part was also that
23 could lead to customer quality-of-service issues if
24 the plants aren't maintained in accordance with DEP
25 requirements.

1 So, that's why we focused, again, on that
2 part, of that aspect, of keeping the plant in
3 compliance, as another part. To me, that's
4 management. That's -- that's the managers keeping
5 up and responding appropriately to other regulatory
6 agencies.

7 COMMISSIONER BROWN: Is legal comfortable with
8 the way that we are analyzing these cases now?

9 MR. HETRICK: The answer is yes, Commissioner
10 Brown. That's way we -- I think Tom articulated it
11 perfectly. That's what -- the Chairman's goal.
12 And we've been through this with, not just the
13 Chairman, but the Commission as well. And that's
14 where we wound up with this rule, to try to get it
15 in a better posture to sort through these issues.

16 So, I -- I don't think what Tom is saying is
17 we're limiting what we're looking at. We're just
18 looking at it in a --

19 MR. BAEZ: Rearranging.

20 MR. HETRICK: Rearranging a bit.

21 COMMISSIONER BROWN: Thank you. And I
22 appreciate the discussion. Mr. -- you want to
23 talk? Oh, he wants to talk.

24 CHAIRMAN GRAHAM: The entire -- the goal of
25 what I was pushing for basically was just to

1 bifurcate what used to be Issue 1, and so we can
2 clearly look specifically on quality of service.
3 And I had a problem with quality of service saying
4 that the -- that the recording paper was -- was not
5 coming out cleanly or the pen was out of ink. That
6 had nothing to do with the quality of service.

7 Now, that change does not change anything
8 here. Whatever you could do back before that, you
9 can still do that. It's just -- we just separated
10 it into two separate issues. So, if there's
11 something that you want to address, that ability is
12 still there.

13 If it's not there, then we need to address
14 that because my goal was not to take away any of
15 your -- our authority, or you know, you can still
16 drink them, you know, when it comes to -- you want
17 to take some away for quality of service or some
18 away from systematic situations, but we just -- we
19 put it in two different silos rather than just one.

20 COMMISSIONER BROWN: Okay.

21 CHAIRMAN GRAHAM: I hope that answered your
22 question because, if there's something that you
23 want to address that you don't think you can
24 address now, then let's talk about that.

25 COMMISSIONER BROWN: Yeah. No, I will -- I'll

1 look at it. I just -- you know, something jumped
2 out at me because, really, for a wastewater-only
3 utility, for -- in terms of quality of service,
4 staff really just looks at, under Issue 1, alone,
5 just looks at the util- -- utility's attempt to
6 address customer satisfaction. It doesn't look at
7 the product, et cetera, all that, that we consider
8 in water.

9 So, I -- I think we're okay. I just wanted to
10 have the discussion because it -- it seemed to be
11 more limiting, but I appreciate the dialogue.

12 And the other question -- Mr. Smallridge, hi.
13 How are you doing?

14 MR. SMALLRIDGE: Good afternoon. Good. Thank
15 you.

16 COMMISSIONER BROWN: I appreciate you taking
17 the effort to purchase so many of these
18 distressed -- not that this one is distressed, but
19 distressed, challenging, smaller water utilities.
20 You're doing a good thing for your customers and
21 your operations.

22 I just have a question -- how many do you own
23 now?

24 MR. SMALLRIDGE: Um...

25 COMMISSIONER BROWN: You're growing.

1 MR. SMALLRIDGE: Yeah, we -- we've got some
2 growing-pain issues going on. I -- I don't know
3 the answer to that question, to be honest with you.

4 COMMISSIONER BROWN: You talk about how you
5 need two new maintenance technicians.

6 MR. SMALLRIDGE: Yes, ma'am.

7 COMMISSIONER BROWN: How are they going to
8 enter -- are they part-time or full-time?

9 MR. SMALLRIDGE: Full-time.

10 COMMISSIONER BROWN: Okay. And are you using
11 a lot of contractors, still?

12 MR. SMALLRIDGE: I contract all -- all the
13 operations out. So, the -- the folks that I'm
14 wanting to hire in this docket are -- are just
15 going to be maintenance technicians.

16 COMMISSIONER BROWN: Tech- -- yeah. And
17 meter-reading, right? You're contracting with
18 Lakeland for meter-reading.

19 MR. SMALLRIDGE: Well, on- -- the only system
20 that I have that we don't do meter-reading in-house
21 is this system, West Lakeland.

22 COMMISSIONER BROWN: Okay.

23 MR. SMALLRIDGE: And this -- this is -- what
24 you see in this docket is -- is we've been talking
25 with the City of Lakeland for probably -- since

1 2009. I've been through every aspect, but they --
2 they finally had a -- enough staff change there
3 where somebody was willing to look at partnering
4 with us. And it actually didn't turn out the way I
5 thought it would, but we made adjustments and were
6 able to get it done.

7 The -- after I kind of got married to the City
8 of Lakeland with this -- getting their meter-
9 readings from them -- because they originally told
10 me that they were going to work towards going to
11 the automatic meter-reading system, and that we
12 would be able to do these things electronically.
13 And that's kind of the bait I wanted to take.
14 They -- they haven't quite achieved that yet. And
15 I think they've got a little -- maybe a little bit
16 of delays going on.

17 The issue that I'm having now is that, to that
18 particular context, is sometimes when the City goes
19 out, they don't -- they don't get meter-readings,
20 for whatever reason. So, when I get that
21 information, I don't have that meter-reading.

22 COMMISSIONER BROWN: Right.

23 MR. SMALLRIDGE: So, we go back and put it
24 in -- you know, put it in as zero. The customer
25 gets the same thing on their water bill from the

1 City of Lakeland.

2 So, I haven't had a customer-issue problem,
3 but there's been a couple of times where I just
4 haven't gotten a meter-reading from them. So, we
5 carry it along.

6 COMMISSIONER BROWN: Well, I appreciate you
7 coming down -- coming up to Tallahassee, too,
8 and --

9 MR. SMALLRIDGE: Sure.

10 COMMISSIONER BROWN: -- taking the time to
11 appear on this case.

12 What -- that lawsuit -- I'm curious. The
13 staff analysis doesn't talk about what the legal
14 fees that you're allowing for your amortization,
15 which is typically what we do for rate-case
16 expense. And that's not rate-case expense.
17 It's -- what is this lawsuit? And it -- it's
18 significant.

19 MR. FLETCHER: Bart Fletcher, Commission
20 staff. This was addressed a few years ago by the
21 Commission. The company had a problem with the
22 title, the perc ponds -- the land for the perc
23 ponds. They had a litigation. They were able to
24 finally work out the securing because, under the
25 statute and rules, you have to have a lease or you

1 have to have ownership. So, they were able to
2 resolve that, but it was through that litigation.
3 The Commission, a few years ago, did approve a
4 regulatory asset for that.

5 We did not have the amount of the total
6 litigation cost at that time. Once it was re- --
7 resolved, it took -- spanned over a four-year
8 period. So, that's the reason why we amortized it
9 over four years, but that was the securitization of
10 the land, the perc ponds.

11 COMMISSIONER BROWN: Is it problematic that
12 it's outside of the test year? Because it -- it
13 looks likes the first invoice was -- stemmed from
14 2015.

15 MR. FLETCHER: No, that -- and that's the
16 reason why the company came in and sought a
17 regulatory asset -- permission for a regulatory
18 asset in order to defer those costs.

19 COMMISSIONER BROWN: Thank you.

20 Anything you want to add?

21 MR. SMALLRIDGE: I -- nothing really relevant,
22 but I think it's important for the Commissioners to
23 keep in mind that I initially received this utility
24 in receivership.

25 COMMISSIONER BROWN: Uh-huh.

1 MR. SMALLRIDGE: So, it was something that was
2 given to me in receivership. We -- I was able to
3 secure the utility, and these issues lingered.

4 COMMISSIONER BROWN: Again, thank you.

5 MR. SMALLRIDGE: Lingered from the
6 receivership from the beginning.

7 COMMISSIONER BROWN: Thank you.

8 With that, I would move staff recommendation
9 on all issues.

10 COMMISSIONER POLMANN: Second.

11 CHAIRMAN GRAHAM: It's been moved and second,
12 staff recommendation on all issues. Any further
13 discussion?

14 Seeing none, all in favor, say aye.

15 (Chorus of ayes.)

16 CHAIRMAN GRAHAM: Any opposed?

17 By your action, you have approved staff
18 recommendation on Item No. 13.

19 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS WRAY, 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 14th day of November, 2019.



ANDREA KOMARIDIS WRAY
NOTARY PUBLIC
COMMISSION #GG365545
EXPIRES February 9, 2021