

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 25, 2019

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Norris, Sowards)
Division of Economics (Bruce, Hudson, Ramos) MR
Division of Engineering (Ellis) POE
Office of the General Counsel (Trierweiler, Cowdery)

Handwritten initials and signatures: BS, TB, ALM, MR, EAD, JSC, 9JH, and a circled signature.

RE: Docket No. 20160101-WS – Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.

AGENDA: 08/06/19 – Regular Agenda – Decision on Remand – Parties May Participate on Issues 1, 2, 3, and 4 – Proposed Agency Action Issue 5 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Utilities, Inc. of Florida (UIF or Utility) is a Class A utility providing water and wastewater service to 27 systems in the following counties: Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole. As the result of a corporate reorganization and name change, UIF is the sole surviving corporation that owns and operates the water and

wastewater systems that are the subject of this rate case application.¹ UIF is a wholly-owned subsidiary of Utilities, Inc. (UI).²

On November 22, 2016, UIF completed the minimum filing requirements for its application requesting approval of interim and final water and wastewater rate increases. The test year established for interim and final rates was the historical 13-month average period ended December 31, 2015, with requested adjustments for pro forma projects. UIF requested a final revenue increase of \$2,721,001 for water and \$4,194,453 for wastewater. Additionally, the Utility requested a single, consolidated rate structure.

By Order No. PSC-2016-0526-PCO-WS, issued November 22, 2016, the Commission authorized the collection of interim water and wastewater rates, subject to refund pursuant to Section 367.082, Florida Statutes (F.S.). The approved interim revenue requirements represented an increase of \$348,309 for water and \$209,440 for wastewater operations.³ Additionally, the Commission ordered the collection of revenues totaling \$530,900 held subject to refund for systems that appeared to be earning above their maximum return on equity (ROE).⁴

A formal evidentiary hearing was held May 8-10, 2017. By Order No. PSC-2017-0361-FOF-WS, issued September 25, 2017, the Commission approved in part the requested increase in water and wastewater rates. The approved revenue requirements represented an increase of \$1,924,677 for water and \$3,287,999 for wastewater operations.⁵ The Commission ordered the partial refund of interim revenues collected.⁶ Additionally, the Commission approved a single, consolidated rate structure.

¹ For the purposes of this recommendation, the discussion of individual systems will reference the former utility it belonged to prior to the corporate reorganization, as follows: Cypress Lake Utilities, Inc. (Cypress Lakes), Utilities, Inc. of Eagle Ridge (Eagle Ridge), Labrador Utilities, Inc. (Labrador), Lake Placid Utilities, Inc. (Lake Placid), Lake Utility Services, Inc. (LUSI), Utilities, Inc. of Longwood (Longwood), Mid-County Services, Inc. (Mid-County), Utilities, Inc. of Pennbrooke (Pennbrooke), Utilities Inc. of Sandalhaven (Sandalhaven), Sanlando Utilities Corporation (Sanlando), Tierra Verde Utilities, Inc. (Tierra Verde), and Utilities, Inc. of Florida (UIF-Marion, UIF-Pinellas, UIF-Orange, UIF-Pasco, and UIF-Seminole).

² Order No. PSC-2016-0143-FOF-WS, issued April 12, 2016, in Docket No. 20150235-WS, *In re: Joint application for acknowledgement of corporate reorganization and request for approval of name changes on water and/or wastewater certificates of Cypress Lakes Utilities, Inc. in Polk County; Utilities, Inc. of Eagle Ridge in Lee County; Utilities, Inc. of Florida in Marion, Orange, Pasco, Pinellas, and Seminole Counties; Labrador Utilities, Inc. in Pasco County; Lake Placid Utilities, Inc. in Highlands County; Lake Utility Services, Inc. in Lake County; Utilities, Inc. of Longwood in Seminole County; Mid-County Services, Inc. in Pinellas County; Utilities Inc. of Pennbrooke in Lake County; Utilities, Inc. of Sandalhaven in Charlotte County; Sanlando Utilities Corporation in Seminole County; and Tierra Verde Utilities, Inc. in Pinellas County, to Utilities, Inc. of Florida.*

³ Order No. PSC-2016-0526-PCO-WS, issued November 22, 2016, in Docket No. 20160101-WS, *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.* (Systems authorized to collect interim rates were Lake Placid, UIF-Marion, UIF-Pinellas, UIF-Pasco, Tierra Verde, and the UIF-Seminole water system.)

⁴ *Id.* (Systems with revenues held subject to refund were LUSI, Labrador, Pennbrooke, Longwood, Eagle Ridge, Cypress Lakes, and the UIF-Seminole wastewater system.)

⁵ Order No. PSC-2017-0361-FOF-WS, issued September 25, 2017, in Docket No. 20160101-WS, *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.*

⁶ *Id.* (Systems requiring refunds were Lake Placid, UIF-Marion, UIF-Pasco, Eagle Ridge, Labrador, Pennbrooke, and the UIF-Seminole wastewater system.)

On October 20, 2017, the Office of Public Counsel (OPC) and Seminole County each filed a notice of administrative appeal with the First District Court of Appeal (First DCA or Court).⁷ The Commission's decision was affirmed by the First DCA in the appeal by Seminole County.⁸ In OPC's appeal, the Court affirmed the Commission's order except as to that portion of the Commission's used and useful determination involving prepaid connections. The Court remanded this issue to the Commission to determine the extent to which prepaid connections meet the requirements of Section 367.081(2)(a)2.b., F.S. For property to be considered used and useful in the public service under Section 367.081(2)(a)2.b., F.S., it must be shown to be "needed to serve customers 5 years after the end of the test year."

This recommendation addresses the reversed and remanded portion of OPC's appeal, its effect on the Commission's previous decisions, and the Utility's motion for appellate rate case expense. The Commission has jurisdiction pursuant to Section 367.081, F.S.

⁷ Document Nos. 09000-2017 and 09009-2017

⁸ No. 1D17-4438

Discussion of Issues

Issue 1: What adjustments should be made to comply with the First District Court of Appeal's mandate?

Recommendation: Based on the record, the flows associated with prepaid customers do not meet the statutory criteria of Section 367.081(2)(a)2.b., F.S., and should be removed. Therefore, the revised used and useful (U&U) values for LUSI's wastewater treatment plant (WWTP) and Sandalhaven's Englewood Water District (EWD) capacity should be 53.54 percent and 42.24 percent, respectively. To reflect the revised U&U percentages, wastewater rate base should be decreased by \$476,060, net depreciation expense should be decreased by \$24,888, and Taxes Other Than Income (TOTI) should be decreased by \$13,426. Additionally, Accumulated Deferred Income Taxes (ADITs) should be reduced by \$6,853. (Ellis, Sowards, Trierweiler, Cowdery)

Staff Analysis: In OPC's appeal, the Court affirmed the Commission's order except as to that portion of the Commission's used and useful determination involving prepaid connections. The Court remanded this issue to the Commission to determine the extent to which prepaid connections meet the requirements of Section 367.081(2)(a)2.b., F.S. For property to be considered used and useful in the public service under Section 367.081(2)(a)2.b., F.S., it must be shown to be "needed to serve customers 5 years after the end of the test year." Because this issue was fully addressed on the record and by the parties' post-hearing briefs, the record contains all facts needed by the Commission to make a determination.

Of the systems with U&U adjustments in the Commission's previous Final Order, LUSI and Sandalhaven were the only two with prepaid connections. Staff reviewed the record for evidence showing the extent to which the prepaid connections at issue for LUSI and Sandalhaven are property needed to serve customers five years after the end of the test year.

In cross examination by OPC, UIF witness Seidman stated that prepaid customers are considered future customers by the Utility until such time as they connect to the system. (TR 1203) In response to OPC's Ninth Set of Interrogatories, No. 220, UIF states that the Utility's developer agreements do not set deadlines for construction to be completed and that the Utility does not know the construction schedules for developments involving prepaid connections. (EXH 108) As the Utility is unaware of the time period of the potential developments, it cannot be ascertained whether prepaid connections would connect within five years or more than five years based on the record. Therefore, capacity devoted to prepaid connections does not qualify under Section 367.081(2)(a)2.b., F.S., as property used and useful in the public service.

Staff revised the used and useful calculations for LUSI and Sandalhaven to eliminate the prepaid connections. The revised U&U values are 53.54 percent for LUSI's WWTP and 42.24 percent for Sandalhaven's EWD capacity. No modification is necessary to the Sandalhaven transmission system U&U value, as the Commission's U&U determination in its previous Final Order was based on the transmission system being the sole means of delivering flows to EWD for treatment, in addition to the flow calculation.

To reflect the revised U&U percentages, staff recommends that, on a consolidated basis, wastewater plant be reduced by \$1,589,473, accumulated depreciation be reduced by \$389,703, contributions in aid of construction (CIAC) be reduced by \$790,077, and accumulated amortization of CIAC be reduced by \$66,367. Corresponding adjustments should be made to decrease net depreciation expense and TOTI by \$24,888 and \$13,426, respectively, for wastewater on a consolidated basis. As such, on a consolidated basis, wastewater rate base should be decreased by \$476,060, net depreciation expense should be decreased by \$24,888, and TOTI should be decreased by \$13,426. Additionally, ADITs should be reduced by \$6,853. The adjustments are shown in Tables 1-1 and 1-2 below. The recommended adjusted rate base for wastewater is shown on Schedule No. 1. The adjusted consolidated capital structure is shown on Schedule No. 2.

**Table 1-1
 Non-U&U Adjustments to Wastewater Rate Base**

| Description | Per Order No. PSC-2017-0361- FOF-WS | Staff Recommendation | Difference |
|----------------------------------|--|---------------------------------|--------------------|
| Plant | (\$927,563) | (\$2,571,036) | (\$1,589,473) |
| Accumulated Depreciation | 371,447 | 761,150 | 389,703 |
| CIAC | (908,978) | (118,901) | 790,077 |
| Accumulated Amortization of CIAC | <u>256,738</u> | <u>190,371</u> | <u>(66,367)</u> |
| Total | <u>(\$1,208,356)</u> | <u>(\$1,684,416)</u> | <u>(\$476,060)</u> |

Source: Order No. PSC-2017-0361-FOF-WS

**Table 1-2
 Non-U&U Adjustments to Wastewater Net Operating Income**

| Description | Per Order No. PSC-2017-0361- FOF-WS | Staff Recommendation | Difference |
|----------------------------|--|---------------------------------|-------------------|
| Depreciation Expense (Net) | (\$70,098) | (\$94,986) | (\$24,888) |
| TOTI | <u>(6,388)</u> | <u>(19,814)</u> | <u>(13,426)</u> |
| Total | <u>(\$76,486)</u> | <u>(\$114,800)</u> | <u>(\$38,314)</u> |

Source: Order No. PSC-2017-0361-FOF-WS

Issue 2: What is the total revenue requirement after staff's recommended adjustments made in accordance with the First District Court of Appeal's mandate?

Recommendation: Based on the adjustments discussed in the previous issue, staff recommends a total revenue requirement of \$15,658,716 for water and \$18,747,174 for wastewater. (Sewards)

Staff Analysis: The revenue requirements as calculated in Order No. PSC-2017-0361-FOF-WS as well as staff's recommended revenue requirements are show in Table 2-1 below.

**Table 2-1
Revenue Requirement**

| Description | Per Order No. PSC-2017-0361- FOF-WS | Staff Recommendation | Difference |
|--------------------|--|---------------------------------|-------------------|
| Water | \$15,662,276 | \$15,658,716 | (\$3,560) |
| Wastewater | \$18,840,298 | \$18,747,174 | (\$93,124) |

Source: Order No. PSC-2017-0361-FOF-WS

Staff notes that revision of the non-U&U percentage affected the rate of return and components of net operating income for both water and wastewater, resulting in the difference shown in Table 2-1 above. Based on the adjustments discussed in the previous issue, staff recommends a total revenue requirement of \$15,658,716 for water and \$18,747,174 for wastewater.

Issue 3: What are the appropriate rates after adjustments to comply with the First District Court of Appeal's mandate?

Recommendation: Staff recommends no adjustments to UIF's existing water rates. The appropriate wastewater rates are reflected on Schedule No. 4 as attached and should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.). The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved wastewater rates. In addition, the approved wastewater rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice. (Bruce, Ramos)

Staff Analysis: As discussed in Issue 2, staff recommends adjustments to UIF's revenue requirements in accordance with the First DCA's mandate, which results in decreases to UIF's revenue requirements of \$3,560 (or 0.02 percent) for water and \$93,124 (or 0.49 percent) for wastewater. Staff does not recommend any adjustments to UIF's existing water rates because the 0.02 percent reduction is de minimis.

However, staff believes a reduction of \$93,124 to the Utility's wastewater revenue requirement warrants a change in wastewater rates. To determine the appropriate decrease to apply to wastewater rates, staff removed miscellaneous and reuse revenues from the revenue requirement as detailed in Table 3-1 below. As a result, staff calculated a reduction of 0.51 percent for wastewater rates and applied the reduction across-the-board.

**Table 3-1
Wastewater Rate Decrease**

| | | |
|---|--|--------------|
| 1 | Revenue Requirement | \$18,840,298 |
| | | |
| 2 | Less: Miscellaneous and Reuse Revenues | \$414,796 |
| | | |
| 3 | Service Rate Revenues | \$18,425,502 |
| | | |
| 4 | Revenue Decrease | \$93,124 |
| | | |
| 5 | Percentage Service Rate Decrease (Line 4 / Line 3) | 0.51% |

In addition, due to the revenue requirement changes, staff evaluated whether UIF's four-year rate reduction (4YRR) calculations needed to be revised. The 4YRR calculations determine the percentage by which rates need to be reduced to reflect the removal of the amortized rate case expense. Staff determined that no revisions are necessary to the 4YRR calculations because, as a result of rounding, the resulting percentage with respect to UIF's amortized rate case expense and revenue requirements did not change from what has been approved by the Commission.

In the Final Order, the Commission determined the quality of service for Cypress Lakes, Mid-County, and Pennbrooke was marginal. Additionally, the quality of service for Summertree was deemed unsatisfactory. As a result, a penalty to the return on equity (ROE) for these systems was imposed as a credit that would flow back to the benefit of the customers. Staff evaluated whether the Utility's ROE credits needed to be recalculated and determined no adjustments are necessary, because the change is de minimis and has no impact on the amount of the existing credits.

Based on the above, staff recommends no adjustments to UIF's existing water rates. The appropriate wastewater rates are reflected on Schedule No. 4 as attached and should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved wastewater rates. In addition, the approved wastewater rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The Utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 4: Should Utilities, Inc. of Florida be required to make refunds to comply with the First District Court of Appeal's mandate?

Recommendation: Yes. The calculated 0.02 percent refund for water, as well as the Lake Placid additional water interim refund of 0.01 percent, should be booked to CIAC in lieu of a refund to water customers. A 0.49 percent refund should be made to all wastewater customers. In addition, interim refunds are due as detailed in the table below, and because of the de minimis amount, these should be added to the consolidated wastewater refunds made to all customers.

| System | Additional Interim Refund Percentage Due |
|---------------------------|--|
| Eagle Ridge – Wastewater | 0.02% |
| Labrador – Wastewater | 0.02% |
| Pennbrooke – Wastewater | 0.02% |
| UIF Marion – Wastewater | 0.01% |
| UIF Pasco – Wastewater | 0.01% |
| UIF Seminole – Wastewater | 0.02% |

The refunds should be made with interest in accordance with Rule 25-30.360(4), F.A.C., The Utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. The Utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C. (Sewards, Trierweiler)

Staff Analysis: As a result of the adjustments recommended by staff in accordance with the First DCA's mandate, the final revenue requirements as presented in Issue 2 are less than those approved by the Commission in its previous Final Order.⁹ As such, refunds are necessary as discussed below.

By Order No. PSC-2017-0361-FOF-WS, the Commission approved a total revenue requirement of \$15,662,276 for water and \$18,840,298 for wastewater. As discussed in Issue 2, staff is recommending an adjusted total revenue requirement of \$15,658,716 and \$18,747,174 for water and wastewater, respectively, which represents a reduction of \$3,560 for water and \$93,124 for wastewater. As a result, refunds are due to all water and wastewater customers for the time period between the issuance of the previous Final Order in September 2017, and the issuance of the Final Order on this matter, currently scheduled in August 2019.

As discussed in Issue 3, the Commission approved ROE penalties for Cypress Lakes, Mid-County, Pennbrooke, and Summertree which were imposed as credits for the customers of those systems. These credits were calculated using the incremental change in revenue requirement associated with the respective ROE penalties for each system. Based on the reduction in revenue requirement, UIF is also due a refund, as the Utility issued more credits than due to its customers since the Final Order. On an annual basis, these excessive credits total \$29 and \$20 for all water

⁹ Order No. PSC-2017-0361-FOF-WS, issued September 25, 2017, in Docket No. 20160101-WS, *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.*

and wastewater customers, respectively. Given the de minimis amount of excessive credits, staff recommends the ROE penalty credits due to the Utility be offset against the total reductions to final revenue requirements in calculating the total refund percentages for the water and wastewater systems, collectively.

Based on a net reduction of \$3,531 (\$3,560 - \$29) for water and \$93,105 (\$93,125 - \$20) for wastewater, staff calculated a total refund percentage of 0.02 percent for water and 0.49 percent for wastewater.

By the previous Final Order, the Commission also approved total interim refunds in the amount of \$298,354. Staff recalculated the impact on interim refunds associated with the recommended revenue requirements and has determined that additional interim refunds as listed in the table below.

**Table 4-1
 Interim Refunds**

| System | Refunds Per Order No. PSC-2017- 0361-FOF-WS | Staff Recommended Refunds | Additional Interim Refund Percentage Due |
|---------------------------|--|--|---|
| Lake Placid – Water | \$2,429 | \$2,440 | 0.01% |
| Eagle Ridge – Wastewater | 19,250 | 19,453 | 0.02% |
| Labrador – Wastewater | 83,236 | 83,410 | 0.02% |
| Pennbrooke – Wastewater | 768 | 850 | 0.02% |
| UIF Marion – Wastewater | 17,863 | 17,872 | 0.01% |
| UIF Pasco – Wastewater | 97,162 | 97,210 | 0.01% |
| UIF Seminole – Wastewater | <u>77,646</u> | <u>77,793</u> | 0.02% |
| Total | <u>\$298,354</u> | <u>\$299,028</u> | |

Source: Order No. PSC-2017-0361-FOF-WS

Using monthly revenues provided by the Utility and the 30-day Financial Commercial Paper rate, staff estimated the cumulative refund amount for the water and wastewater systems using the refund percentages discussed above.¹⁰ The total estimated refund due to water customers is \$6,831 and \$186,987 for wastewater customers. This includes the reduction to the revenue requirement, the excessive ROE penalties, and the additional interim refunds.

Given the relatively small estimated amount of refunds due to all water customers, staff recommends booking the refunds to CIAC once the Utility calculates the final amount. The Commission has previously ordered this same treatment of refunds based on specific circumstances, such as the relative magnitude.¹¹ Booking the water refunds to CIAC will benefit the general body of rate payers by decreasing rate base.

¹⁰ Document No. 04116-2019

¹¹ Order No. PSC-2003-0351-PAA-SU, issued March 11, 2003, in Docket No. 20020344-SU, *In re: Application for rate increase in Monroe County by Key Haven Utility Corporation.*

The estimated amount of additional interim refunds due to wastewater customers is only \$527. Staff believes the administrative costs of issuing these refunds on a system specific basis, given the relatively small estimated amount, would be unreasonable. As such, once the Utility calculates the final amount of wastewater refunds, staff recommends aggregating the additional interim refunds to the total refund made to all wastewater customers in lieu of the individual interim systems.

Based on the above, staff recommends that the calculated 0.02 percent refund for water, as well as the Lake Placid additional water interim refund of 0.01 percent, should be booked to CIAC in lieu of a refund to water customers. A 0.49 percent refund should be made to all wastewater customers. In addition, interim refunds are due as detailed in Table 4-1 above, and because of the de minimis amount, these should be added to the consolidated wastewater refunds made to all customers. The refunds should be made with interest in accordance with Rule 25-30.360(4), F.A.C. The Utility should be required to submit proper refund reports pursuant to Rule 25-30.360(7), F.A.C. the Utility should treat any unclaimed refunds as CIAC pursuant to Rule 25-30.360(8), F.A.C.

Issue 5: Should the Commission grant Utilities, Inc. of Florida's Motion for Recovery of Appellate Rate Case Expense?

Recommendation: Yes. The appropriate amount of appellate rate case expense is \$39,727. Further, rate case expense should be allocated between the consolidated water and wastewater systems based on equivalent residential connections (ERCs). Additionally, staff recommends the authorization of a regulatory asset to recover the expense in the Utility's next rate proceeding. (Sewards, Trierweiler)

Staff Analysis: On May 21, 2019, UIF filed a Motion for Appellate and Remand Rate Case Expense.¹² In its motion, the Utility requested recovery of its appellate and remand rate case expense in the amount of \$39,727. The Utility's requested rate case expense consists of \$300 in accounting fees and \$28,687 in legal fees incurred to date. It also includes estimated legal fees of \$9,690 and \$1,050 in travel costs for legal and Utility representatives to attend the Agenda Conference. To support its motion, UIF cited a decision on remand made by the Commission for Sunshine Utilities of Central Florida (Sunshine).¹³ In the Sunshine case, the Utility initiated the appeal process and was the cost causer. The Commission determined that Sunshine was entitled to partially recover rate case expense based on the number of appealed issues on which the Utility had prevailed.

In its motion, UIF stated it would be erroneous to reduce the rate case expense based upon the allocation methodology used for Sunshine. The Utility contended that because it did not file the appeal, the full amount of rate case expense requested should be granted, as it was necessary for the Utility to defend itself as the appellee on all issues.

On May 31, 2019, OPC filed a response to UIF's comments on remand.¹⁴ In its response, OPC disagreed with the Utility's position. OPC asserted that, according to Commission precedent established in the Sunshine case, only rate case expense associated with issues the Utility prevailed on should be awarded.

In the instant docket, OPC and Seminole County filed an appeal while UIF did not. As the Utility is not the cost driver of the appeal, staff believes that, regardless of the outcome of each issue, the Utility was prudent in its decision to incur rate case expense to defend itself. As such, staff recommends that the appellate rate case expense awarded should not be based on an allocation methodology.

In its response, OPC also contended that recovery of estimated fees and costs to completion is inappropriate. In support of its argument, OPC cited an Order detailing a decision made for estimated appellate rate case expense for Southern States Utilities (SSU).¹⁵

¹² Document No. 04461-2019

¹³ Order No. PSC-1994-0738-FOF-WU, issued June 15, 1994, in Docket No. 19900386-WU, *In re: Application for a Rate Increase in Marion County by Sunshine Utilities of Central Florida, Inc.*

¹⁴ Document No. 04674-2019

¹⁵ Order No. 1996-1320-FOF-WS, issued October 30, 1996, in Docket No. 19950495-WS, *In re: Application for rate increase and increase in service availability charges by Southern States Utilities, Inc. for Orange-Osceola Utilities, Inc. in Osceola County; and in Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee,*

In the SSU case, the Utility requested rate case expense for a possible appeal it would file following the issuance of the Final Order. SSU's request was based on the assumption that it would eventually file an appeal. Upon review, staff believes that the SSU case is not representative of the facts in the instant docket. In the current case, the appeal process has already been completed, and the estimated costs are for events that are scheduled and required to complete the current docket. As such, staff believes the recovery of estimated fees and costs to completion are appropriate, and UIF should be allowed to recover these costs.

Pursuant to Section 367.081(7), F.S., the Commission must determine the reasonableness of the requested rate case expense. Staff has examined the requested actual expenses, supporting documentation and estimated expenses and believes the requested rate case expense of \$39,727 is reasonable.

Pursuant to Section 367.081(8), F.S., rate case expense should be amortized over four years unless a longer period can be justified and is in the public interest. The amortization period of the appellate rate case expense was not addressed by the Utility or OPC. By Final Order, the Commission established a recovery period of four years for the rate case expense approved in that order. As current rates have been in effect for approximately two years, staff believes that the inclusion of the appellate rate case expense in the existing balance would violate Section 367.081, F.S., as the new rate case expense would be recovered in a period shorter than four years.

Alternatively, the appellate rate case expense could be amortized separately, which would require an additional rate reduction four years later. However, the rate reduction would only be approximately \$5,000 each for water and wastewater. Staff believes the administrative costs of an additional rate reduction, given the relative size of the amount, would be unreasonable. Further, staff notes the additional rate reduction could potentially cause undue confusion to customers.

Staff believes a more reasonable approach is the creation of a regulatory asset that would allow the Utility to seek recovery of the expense through rates in its next rate proceeding. The Commission has previously ordered similar treatment of rate case expense associated with UIF's Phoenix Project.¹⁶ Accounting Standards Codification 980 allows regulated companies to defer costs and create regulatory assets, provided that it is probable that future revenue in an amount at least equal to the capitalized cost will result from inclusion of that cost in allowable costs for rate-making purposes. This concept of deferral accounting allows utilities to defer costs due to events beyond their control and seek recovery through rates at a later time.

Based on the above, staff recommends that UIF be granted recovery of appellate rate case expense in the amount of \$39,727. Further, rate case expense should be allocated between the consolidated water and wastewater systems based on ERCs. Additionally, staff recommends the authorization of a regulatory asset to recover the expense in the Utility's next rate proceeding.

Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties.

¹⁶ Order No. PSC-2014-0521-FOF-WS, issued September 30, 2014, in Docket No. 20120161-WS, *In re: Analysis of Utilities, Inc.'s financial accounting and customer service computer system.*

Issue 6: Should this docket be closed?

Recommendation: No. This docket should remain open for staff's verification that the Utility has completed the recommended refunds, filed revised tariff sheets, and filed customer notices. For Issue 5, related to the appellate rate case expense, if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order will be issued and the portion of the Order dealing with appellate rate case expense will become final. Once all actions are complete, the docket should be closed. (Trierweiler, Cowdery)

Staff Analysis: This docket should remain open for staff's verification that the Utility has completed the recommended refunds, filed revised tariff sheets, and filed customer notices. For Issue 5, related to the appellate rate case expense, if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order will be issued and the portion of the Order dealing with appellate rate case expense will become final. Once all actions are complete, the docket should be closed.

| Utilities, Inc. of Florida | | Schedule No. 1 | |
|---|-------------------------------------|--|--|
| Schedule of Wastewater Rate Base | | Docket No. 20160101-WS | |
| Test Year Ended 12/31/2015 | | | |
| Description | Per Commission Order | Staff Recommended Adjustments | Staff Recommended Balance |
| 1 Plant in Service | \$119,883,416 | \$0 | \$119,883,416 |
| 2 Land and Land Rights | 775,725 | 0 | 775,725 |
| 3 Non-used and Useful Components | (2,430,359) | (476,060) | (2,906,419) |
| 4 Accumulated Depreciation | (46,001,808) | 0 | (46,001,808) |
| 5 CIAC | (42,121,095) | 0 | (42,121,095) |
| 6 Amortization of CIAC | 26,165,784 | 0 | 26,165,784 |
| 7 Working Capital Allowance | <u>3,030,341</u> | <u>0</u> | <u>3,030,341</u> |
| 8 Rate Base | <u>\$59,302,005</u> | <u>(\$476,060)</u> | <u>\$58,825,945</u> |

| Utilities, Inc. of Florida | | | | | | Schedule No. 2 | | |
|--|----------------------|-----------------------------|----------------------------------|-----------------------------|--|-------------------------------|------------------|----------------------|
| Capital Structure- 13 Month Average | | | | | | Docket No. 20160101-WS | | |
| Test Year Ended 12/31/2015 | | | | | | | | |
| Description | Total Capital | Specific Adjustments | Subtotal Adjusted Capital | Pro rata Adjustments | Capital Reconciled to Rate Base | Ratio | Cost Rate | Weighted Cost |
| Per Order No. PSC-2017-0361-FOF-WS | | | | | | | | |
| 1 Long-term Debt | \$180,000,000 | \$0 | \$180,000,000 | (\$135,974,808) | \$44,025,192 | 39.41% | 6.70% | 2.64% |
| 2 Short-term Debt | 17,100,000 | 0 | 17,100,000 | (12,917,607) | 4,182,393 | 3.74% | 2.32% | 0.09% |
| 3 Preferred Stock | 0 | 0 | 0 | 0 | 0 | 0.00% | 0.00% | 0.00% |
| 4 Common Equity | 191,433,000 | 0 | 191,433,000 | (144,611,474) | 46,821,526 | 41.92% | 10.40% | 4.36% |
| 5 Customer Deposits | 209,588 | 22,434 | 232,022 | 0 | 232,022 | 0.21% | 2.00% | 0.00% |
| 6 Tax Credits- Zero Cost | 46,232 | 0 | 46,232 | 0 | 46,232 | 0.04% | 0.00% | 0.00% |
| 7 Deferred Income Tax | <u>7,339,011</u> | <u>9,051,646</u> | <u>16,390,657</u> | <u>0</u> | <u>16,390,657</u> | <u>14.67%</u> | 0.00% | <u>0.00%</u> |
| 8 Total Capital | <u>\$396,127,831</u> | <u>\$9,074,080</u> | <u>\$396,269,685</u> | <u>(\$293,503,889)</u> | <u>\$111,698,022</u> | <u>100%</u> | | <u>7.09%</u> |
| Per Staff | | | | | | | | |
| 9 Long-term Debt | \$180,000,000 | \$0 | \$180,000,000 | (\$136,191,619) | \$43,808,381 | 39.39% | 6.70% | 2.64% |
| 10 Short-term Debt | 17,100,000 | 0 | 17,100,000 | (12,938,204) | 4,161,796 | 3.74% | 2.32% | 0.09% |
| 11 Preferred Stock | 0 | 0 | 0 | 0 | 0 | 0.00% | 0.00% | 0.00% |
| 12 Common Equity | 191,433,000 | 0 | 191,433,000 | (144,842,057) | 46,590,943 | 41.89% | 10.40% | 4.36% |
| 13 Customer Deposits | 209,588 | 22,434 | 232,022 | 0 | 232,022 | 0.21% | 2.00% | 0.00% |
| 14 Tax Credits- Zero Cost | 46,232 | 0 | 46,232 | 0 | 46,232 | 0.04% | 0.00% | 0.00% |
| 15 Deferred Income Tax | <u>7,339,011</u> | <u>9,043,577</u> | <u>16,382,588</u> | <u>0</u> | <u>16,382,588</u> | <u>14.73%</u> | 0.00% | <u>0.00%</u> |
| 16 Total Capital | <u>\$396,127,831</u> | <u>\$9,066,011</u> | <u>\$405,193,842</u> | <u>(\$293,971,879)</u> | <u>\$111,221,963</u> | <u>100%</u> | | <u>7.09%</u> |
| | | | | | | Low | High | |
| RETURN ON EQUITY | | | | | | <u>9.40%</u> | <u>11.40%</u> | |
| OVERALL RATE OF RETURN | | | | | | <u>6.67%</u> | <u>7.51%</u> | |

| Utilities, Inc. of Florida | | Schedule No. 3-A | |
|--------------------------------------|-------------------------------------|--|--|
| Statement of Water Operations | | Docket No. 20160101-WS | |
| Test Year Ended 12/31/2015 | | | |
| Description | Per Commission Order | Staff Recommended Adjustments | Staff Recommended Balance |
| 1 Operating Revenues: | <u>\$15,662,276</u> | <u>(\$3,560)</u> | <u>\$15,658,716</u> |
| Operating Expenses | | | |
| 2 Operation & Maintenance | \$6,280,880 | \$0 | \$6,280,880 |
| 3 Depreciation | 2,483,459 | 0 | 2,483,459 |
| 4 Amortization | 51,142 | 0 | 51,142 |
| 5 Taxes Other Than Income | 1,754,147 | (160) | 1,753,987 |
| 6 Income Taxes | <u>1,377,110</u> | <u>(938)</u> | <u>1,376,172</u> |
| 7 Total Operating Expense | <u>\$11,946,738</u> | <u>(\$1,098)</u> | <u>\$11,945,639</u> |
| 8 Operating Income | <u>\$3,715,538</u> | | <u>\$3,713,007</u> |
| 9 Rate Base | <u>\$52,396,017</u> | | <u>\$52,396,017</u> |
| 10 Rate of Return | <u>7.09%</u> | | <u>7.09%</u> |

| Utilities, Inc. of Florida | | Schedule No. 3-B | |
|---|-------------------------------------|--|--|
| Statement of Wastewater Operations | | Docket No. 20160101-WS | |
| Test Year Ended 12/31/2015 | | | |
| Description | Per Commission Order | Staff Recommended Adjustments | Staff Recommended Balance |
| 1 Operating Revenues: | <u>\$18,840,298</u> | <u>(\$93,124)</u> | <u>\$18,747,174</u> |
| Operating Expenses | | | |
| 2 Operation & Maintenance | \$8,034,536 | \$0 | \$8,034,536 |
| 3 Depreciation | 2,972,392 | (24,888) | 2,947,504 |
| 4 Amortization | 226,085 | (86) | 226,000 |
| 5 Taxes Other Than Income | 1,840,605 | (18,077) | 1,822,528 |
| 6 Income Taxes | <u>1,559,772</u> | <u>(13,551)</u> | <u>1,546,221</u> |
| 7 Total Operating Expense | <u>\$14,633,391</u> | <u>(\$56,602)</u> | <u>\$14,576,790</u> |
| 8 Operating Income | <u>\$3,715,538</u> | | <u>\$4,170,384</u> |
| 9 Rate Base | <u>\$59,302,005</u> | | <u>\$58,825,945</u> |
| 10 Rate of Return | <u>7.09%</u> | | <u>7.09%</u> |

| Utilities Inc. of Florida | Schedule No. 4 | |
|---|---|--|
| Test Year Ended 12/31/15 | Docket No. 20160101-WS | |
| Wastewater Rates | Page 1 of 2 | |
| | Utility's Existing Rates | Staff Recommended Rates |
| <u>Residential Service (RS1)</u> | | |
| All Meter Sizes | \$26.33 | \$26.20 |
| Charge per 1,000 gallons 8,000 gallon cap | \$4.21 | \$4.19 |
| <u>Residential Service (RS2)</u> | | |
| All Meter Sizes | \$52.66 | \$52.40 |
| Charge per 1,000 gallons 16,000 gallon cap | \$4.21 | \$4.19 |
| <u>Residential Service (RS3)</u> | | |
| Flat Rate | \$47.37 | \$47.13 |
| <u>Residential Service (RS4)</u> | | |
| Flat Rate | \$94.74 | \$94.26 |
| <u>General Service (GS1)</u> | | |
| Base Facility Charge by Meter Size | | |
| 5/8" x 3/4" | \$26.33 | \$26.20 |
| 3/4" | \$39.50 | \$39.30 |
| 1" | \$65.83 | \$65.50 |
| 1-1/2" | \$131.65 | \$131.00 |
| 2" | \$210.64 | \$209.60 |
| 3" | \$421.28 | \$419.20 |
| 4" | \$658.25 | \$655.00 |
| 6" | \$1,316.50 | \$1,310.00 |
| 8" | \$2,106.40 | \$2,096.00 |
| 10" | \$3,817.85 | \$3,799.00 |
| Charge per 1,000 gallons | \$5.05 | \$5.02 |

| Utilities Inc. of Florida | Schedule No. 4 | |
|---|---|--|
| Test Year Ended 12/31/15 | Docket No. 20160101-WS | |
| Wastewater Rates | Page 2 of 2 | |
| | Utility's Existing Rates | Staff Recommended Rates |
| <u>General Service (GS2)</u> | | |
| 5/8" x 3/4" | \$52.66 | \$52.40 |
| 3/4" | \$79.00 | \$78.60 |
| 1" | \$131.66 | \$131.00 |
| 1 1/2" | \$263.30 | \$262.00 |
| 2" | \$421.28 | \$419.20 |
| 3" | \$842.56 | \$838.40 |
| 4" | \$1,316.50 | \$1,310.00 |
| 6" | \$2,633.00 | \$2,620.00 |
| 8" | \$4,212.80 | \$4,192.00 |
| 10" | \$7,635.70 | \$7,598.00 |
| Charge per 1,000 gallons | \$5.05 | \$5.02 |
| <u>General Service (GS3)</u> | | |
| Flat Rate | \$47.37 | \$47.13 |
| <u>General Service (GS4)</u> | | |
| Flat rate (905 ERCs) | \$42,869.85 | \$42,652.65 |
| <u>Bulk Service (BS1)</u> | | |
| All Meter Sizes (58 ERCs) | \$1,527.14 | \$1,519.60 |
| Charge per 1,000 gallons | \$4.21 | \$4.19 |
| <u>Typical Residential 5/8" x 3/4" Meter Bill Comparison (RS1)</u> | | |
| 3,000 Gallons | \$38.96 | \$38.77 |
| 6,000 Gallons | \$51.59 | \$51.34 |
| 8,000 Gallons | \$60.01 | \$59.72 |