

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

2 CHAIRMAN CLARK: All right. Next moving to
3 Item No. 7, Mr. Futrell.

4 MR. FUTRELL: Item 7 is staff's recommendation
5 on the petition by Utilities, Inc. of Florida, or
6 UIF, for approval to establish a regulatory asset
7 to record certain costs incurred due to COVID-19.
8 The company has requested approval to defer
9 incremental bad debt expense and safety related
10 costs attributable to COVID-19.

11 The approval to establish a regulatory asset
12 for accounting purposes does not limit the
13 Commission's ability to review the proposed
14 amounts, other related matters for reasonableness
15 in a future proceeding and potential recovery.

16 Staff recommends that the categories of costs
17 be limited as noted in the recommendation.

18 Also, staffs recommends UIF be ordered to
19 track any assistance or benefits received by the
20 company in connection with COVID-19 regardless of
21 form or force that would offset any COVID-19
22 related expenses.

23 In addition, UIF should be prepared to explain
24 what actions it has undertaken to reduce or
25 minimize these costs and to maximize the receipt of

1 any available COVID-19 assistance or benefits.

2 Finally, staff recommends UIF be required to
3 file monthly reports with the Commission
4 identifying the amounts of COVID-19 costs incurred,
5 any assistance or benefits received, and any cost
6 savings realized.

7 The First report will be due December 1st,
8 with an updated report due every month thereafter
9 until UIF files for potential cost recovery.

10 The Commission will review actual costs
11 incurred and any offsets when UIF seeks approval to
12 recover such costs from customers.

13 The company representative is available for
14 comments or questions. The Office of Public
15 Counsel has requested to address the Commission,
16 and staff is available.

17 CHAIRMAN CLARK: Thank you, Mr. Futrell.

18 Ms. Morse, are you available?

19 MS. MORSE: Yes, Mr. Chairman, I am.

20 CHAIRMAN CLARK: You are recognized.

21 MS. MORSE: Thank you.

22 Good morning, Mr. Chairman and Commissioners.
23 This is Stephanie Morse with the Office of Public
24 Counsel. Thank you for the opportunity to speak on
25 this docket on behalf of the customers.

1 OPC urges you to deny UIF's petition as both
2 premature and lacking the requisite evidentiary
3 foundation or proof that establishment of a
4 regulatory asset of cost deferral is the correct
5 measure at this time.

6 UIF's circumstances are different from some
7 other petitioners in that UIF was already engaged
8 in a rate case well before it filed the instant
9 petition to establish a regulatory asset. The
10 utility alleged it was underearning when it filed
11 its rate case in June 2020, which is more than a
12 month before the -- the petition, the instant
13 petition was filed. Filing a rate case is the
14 appropriate reaction to underearning. The bottom
15 line is that it's entirely possible that as a
16 result of the rate case, there may be no need for a
17 regulatory asset.

18 UIF was just awarded an interim rate increase
19 to bring it up to the low end of its range. That
20 alone suggests that no regulatory asset is
21 necessary. Further, any COVID related costs should
22 be addressed in the current rate case, and if the
23 evidence shows that the data bears out that a
24 regulatory asset is necessary because the costs are
25 truly extraordinary, substantial and not reflective

1 of future years, they would be handled like any
2 other cost deferral that is the result of a rate
3 case, meaning similar to tainting or rate case
4 expense.

5 Under the specific facts of this case,
6 evaluating the COVID costs at issue during the rate
7 case is most consistent with the Commission
8 precedent, and is the most accurate, fair way to
9 address those costs. Therefore, a regulatory asset
10 should not be approved or established prematurely
11 at this time, but, instead, should be considered
12 for approval during the rate case, which already
13 has a date certain set for an evidentiary hearing.
14 That hearing is scheduled to start February 2nd of
15 2021.

16 Notably, staff's discovery to date has already
17 encompassed questions as investigation of COVID
18 costs, so we already know that the COVID costs are
19 being factored into the rate case as we speak.

20 Rate case discovery doesn't close until
21 January 14, so there is still time for staff and
22 OPC to issue more discovery on COVID issues in the
23 rate case, and to do the work required to make the
24 determination of whether a regulatory asset is
25 necessary.

1 As we stated, establishment of a regulatory
2 asset effects with substantial interest all
3 customers' rights to fair and reasonable rates.
4 Therefore, as a matter of law, the customers are
5 due a point of entry to litigate the issue within a
6 specified time. That's pursuant to Cavaletti
7 Brothers V State, which is a First DCA case.

8 Regardless on the outcome on if and when
9 establishment of a regulatory asset should be
10 considered, OPC agrees with staff's assessment that
11 the Commission should explicitly deny the deferral
12 of any alleged lost revenue for inclusion in a
13 regulatory asset.

14 OPC further agrees that the expressed limit on
15 costs to be included in any regulatory asset, as
16 outlined by staff on page three of its
17 recommendation, should apply and be in force.

18 In summary, we urge you to deny UIF's petition
19 for approval of the regulatory asset at this time.

20 Thank you.

21 CHAIRMAN CLARK: Thank you, Ms. Morse.

22 Commissioners, any questions for Ms.
23 Christensen or Mr. Friedman?

24 MR. FRIEDMAN: This is Marty Friedman. I
25 would like to make a comment in response to what

1 Ms. Morse has said, if I might.

2 CHAIRMAN CLARK: You may. You are recognized.

3 MR. FRIEDMAN: Thank you.

4 Actually, the tracking of COVID-19 cost is
5 more compelling for Utilities Inc. of Florida than
6 it is for the electric utilities that are going to
7 be filing a rate case next year.

8 The UIF rate case -- and we filed that rate
9 case, if you remember, as a way to settle with the
10 Public Counsel over the tax rate reduction docket.
11 So they -- they pushed us into that rate case, that
12 full rate case, whereas we were going to file a
13 limited. And the test year in that rate case is
14 2019, and there are no COVID related costs that
15 were incurred in the test year. So there isn't a
16 way in the rate case -- and the rate case is going,
17 as Ms. Morse pointed out, going to final hearing in
18 February. My guess is that COVID related costs are
19 going to expend well past February of next year,
20 and so there is no -- there is no way to track what
21 those actual COVID related costs are going to be in
22 relation to the existing rate case, because they
23 continue to change daily, and well after the end of
24 the rate case.

25 So I would suggest to you that the COVID --

1 tracking the COVID related costs, as staff as
2 recommended, and creating a regulatory asset at the
3 appropriate time is the only way to assure that
4 these COVID cost related costs are -- (inaudible)
5 -- thank you.

6 CHAIRMAN CLARK: Thank you, Mr. Friedman.

7 All right. Commissioners, questions?

8 Seeing none -- Commissioner Fay.

9 COMMISSIONER FAY: Thank you, Mr. Chairman.

10 I was just going to ask if staff could address
11 the timing issue of the rate case and this item.

12 CHAIRMAN CLARK: Mr. Maurey, are you still on
13 the line?

14 MR. MAUREY: Andrew Maurey again. Yes, I am
15 sorry. Yes, Andrew Maurey, Commission staff. A
16 couple of points.

17 Like Peoples Gas, UIF does have a rate case in
18 progress. And like Peoples Gas, neither of those
19 rate cases have an issue on COVID-19 costs.

20 Now, what Mr. Friedman said about their having
21 a historic test year is true. And the interim
22 relief that UIF received recently was tied to
23 results as of 12/31/19, well before COVID costs
24 were being incurred. So the interim relief that
25 was granted had nothing to do with COVID. So in

1 order to track these costs that are incurring now
2 and give any recognition to them, it would be
3 necessary for the regulatory asset to be
4 established, just as it was with Peoples.

5 The next point -- yeah, now going forward, it
6 is a historic test year, there is proforma for
7 plant, but as I said, there is no COVID-19 issues,
8 and there are no historic costs built into that
9 test year. So presently, COVID-19 is not a part of
10 that rate case, nor is it part of the Peoples Gas
11 rate case.

12 MS. MORSE: This is Stephanie Morse.

13 CHAIRMAN CLARK: Ms. Morse, you are
14 recognized.

15 MS. MORSE: So, yes, I just wanted to respond
16 to -- to the statement that there is no issue. I
17 mean, the issue hasn't been finalized, so that's
18 not to say that COVID costs could never be
19 considered or -- or discussed inside this rate
20 case.

21 MR. MAUREY: This is Andrew Maurey. And she's
22 correct. It hasn't been finalized. The issue for
23 Peoples Gas has, and it's not there.

24 It hasn't been proposed as an issue for this.
25 We've already had the issue ID meeting. No party

1 proposed it. But that doesn't prevent a party from
2 proposing that issue right up to the prehearing.
3 So she's absolutely correct.

4 MR. FRIEDMAN: This is Marty. May I address
5 that as well?

6 CHAIRMAN CLARK: You are recognized, Mr.
7 Friedman.

8 MR. FRIEDMAN: Thank you very much.

9 We don't know what the COVID costs are, and --
10 and as Mr. Maurey pointed out, Public Counsel has
11 offered a number of new issues to the -- to the
12 issues list, none of them address COVID-19.

13 And as a -- you know, as a practical matter,
14 how can you include the COVID-19 costs in the
15 current rate case when they won't be known until --
16 the total costs won't be known until well after the
17 end of the rate case? So -- I mean, I don't know
18 how you can include that as a proforma expense in
19 the rate case with any degree of certainty,
20 otherwise we would certainly do that. I mean, it
21 would have been more expedient for us to include
22 that in there in the rate case. It's just because
23 of the uncertainty of when COVID is going to end,
24 how do we know when those expenses are going to
25 cease to be incurred?

1 Thank you.

2 CHAIRMAN CLARK: Okay. Commissioners?

3 Commissioner Fay.

4 COMMISSIONER FAY: Thank you, Mr. Chairman.

5 I -- I think OPC has made some relevant
6 comments here. I do -- I don't feel comfortable
7 foreclosing the opportunity for this to go forward,
8 so I am prepared to support staff's
9 recommendation -- to move to support staff's
10 recommendation if there are no other comments, Mr.
11 Chairman.

12 CHAIRMAN CLARK: I have a motion from
13 Commissioner Fay. Do I have a second?

14 COMMISSIONER BROWN: Second.

15 CHAIRMAN CLARK: Seconded by Commissioner
16 Brown.

17 Any questions?

18 Commissioner Polmann.

19 COMMISSIONER POLMANN: Yes. Thank you, Mr.
20 Chairman. I was going to second with a comment.

21 I think having heard the comments from OPC
22 and -- and from Mr. Friedman on behalf of the
23 utility, as Commissioner Fay pointed out, I think
24 there are valid points on both sides here, but my
25 observation with regard to the regulatory assets

1 here, and as much as I am not terribly excited
2 about the evolving nature of what's happening, is I
3 don't see a downside. I don't see any negative
4 consequence to proceeding as the staff has
5 recommended. I think there is some very real
6 potential benefit here.

7 So I will support the recommendation because I
8 do think it has -- there is an appropriate positive
9 opportunity. I think it is -- I think it is a
10 benefit to the customers. I think it's a benefit
11 to the utility. It's a benefit to the staff to
12 continue with this approach.

13 So thank you, Mr. Chairman.

14 CHAIRMAN CLARK: Thank you, Commissioner
15 Polmann.

16 Any other questions or comments?

17 On the motion, all in favor say aye.

18 (Chorus of ayes.)

19 CHAIRMAN CLARK: Opposed?

20 (No response.)

21 CHAIRMAN CLARK: Motion carries.

22 (Agenda item concluded.)

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STATE OF FLORIDA)
COUNTY OF LEON)

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DATED this 20th day of October, 2020.



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