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April 20, 2026

BY E-FILING

Mr. Adam Teitzman, Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 20260026-GU – Application for Rate Increase by Florida City Gas.

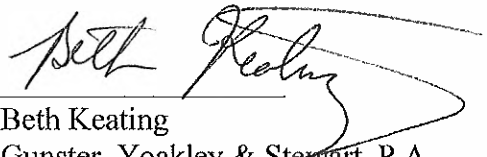
Dear Mr. Teitzman:

Attached, for electronic filing, on behalf of Florida City Gas, please find the Direct Testimony of Terry Deason.

Thank you for your assistance with this filing. As always, please don't hesitate to let me know if you have any questions whatsoever.

(Document 17 of 27)

Sincerely,



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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Docket No. 20260026-GU: Petition for rate increase by Florida City Gas

Prepared Direct Testimony of Terry Deason

Date of Filing: April 20, 2026

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1 **I. Introduction**

2 **Q. Please state your name and business address.**

3 A. My name is Terry Deason. My business address is 4377 NW Torreya Park Road,
4 Bristol, Florida 32321.

5 **Q. By whom are you employed and in what capacity?**

6 A. I am self-employed as a Special Consultant specializing in the fields of energy,
7 telecommunications, water and wastewater, and public utilities generally.

8 **Q. Please describe your educational background and professional experience.**

9 A. I have over forty-seven years of experience in the field of public utility regulation
10 spanning a wide range of responsibilities and roles. I served a total of seven years as
11 a consumer advocate in the Florida Office of Public Counsel (“OPC”) on two separate
12 occasions. In that role, I testified as an expert witness in numerous rate proceedings
13 before the Florida Public Service Commission (“Commission”). My tenure of service
14 at OPC was interrupted by six years as Chief Advisor to Florida Public Service
15 Commissioner Gerald L. Gunter. I left OPC as its Chief Regulatory Analyst when I
16 was first appointed to the Commission in 1991. I served as Commissioner on the
17 Commission for sixteen years, serving as its chairman on two separate occasions.
18 Since retiring from the Commission at the end of 2006, I have been providing
19 consulting services and expert testimony on behalf of various clients, including public
20 service commission advocacy staff, county and municipal governments, and regulated
21 utility companies. I have also testified before various legislative committees on
22 regulatory policy matters. I hold a Bachelor of Science Degree in Accounting, summa
23 cum laude, and a Master of Accounting, both from Florida State University.

1 **Q. Are you sponsoring an exhibit?**

2 A. No.

3 **Q. For whom are you appearing as a witness?**

4 A. I am appearing as a witness for Florida City Gas (“FCG”).

5 **Q. How will you refer to the Company?**

6 A. When referring to the Florida City Gas, I will refer to it as “FCG” or the “Company.”

7 When referring to Chesapeake Utilities Corporation, the parent company, I will refer
8 to it as “Chesapeake” or “CUC.”

9 **Q. What is the purpose of your testimony?**

10 A. The purpose of my testimony is to address the regulatory policy considerations for
11 acquisition adjustments in general and how those policy considerations should be
12 applied to FCG’s request for increased rates in this proceeding, which includes
13 continued recognition of the remaining unamortized portion of the positive acquisition
14 adjustment associated with the 2004 acquisition of FCG by AGL Resources.

15 **Q. Have there been additional acquisitions consummated since the 2004 acquisition
16 of FCG by AGL Resources?**

17 A. Yes, there were subsequent acquisitions consummated at FCG’s parent company level.
18 On July 1, 2016, AGLR became a wholly-owned subsidiary of The Southern
19 Company, under Southern Company Gas. On July 29, 2018, FCG was acquired by
20 700 Universe, LLC, a subsidiary of NextEra Energy, Inc. (“NextEra”), and
21 subsequently transferred to Florida Power & Light Company (“FPL”). As a result of
22 this transaction, FCG became a wholly owned, direct subsidiary of FPL. And on
23 November 30, 2023, FCG was acquired from FPL by Chesapeake.

1 **Q. Did any of these subsequent acquisitions affect the amount of the acquisition**
2 **adjustment being requested?**

3 A. No. The 2016 and 2018 acquisitions were at the parent company level and did not
4 affect FCG's retention of the approved acquisition adjustment reflected on its books.
5 To be clear, any acquisition adjustment resulting from Chesapeake's acquisition of
6 FCG from FPL is not part of this rate case. My testimony focuses on the acquisition
7 associated with AGL Resources' acquisition of the Company in 2004 and the resulting
8 acquisition adjustment originally approved by Order No. PSC-2007-0913-PAA-GU.

9 **Q. What is the amount of the acquisition adjustment at issue in this rate case?**

10 A. The originally approved acquisition adjustment of \$21.7 million is being amortized
11 over a 30-year period or approximately \$0.7 million per year since effective as of
12 November 2004. As of December 31, 2025, the unamortized balance is approximately
13 \$6.4 million. In this proceeding, FCG simply asks that it be allowed to retain the
14 unamortized amount on its books until fully amortized.

15 **Q. Has the Commission addressed the \$21.7 million acquisition adjustment in other**
16 **cases prior to this one?**

17 A. Yes, the Commission has done so on two earlier occasions. On both occasions the
18 rates approved by the Commission continued to recognize the unamortized portion of
19 the acquisition adjustment in rate base along with its annual amortization.

20 The first occasion was in Docket No. 20170179-GU. This was a rate case that was
21 ultimately resolved by a stipulation among the parties. Order No. PSC-2018-0190-
22 FOF-GU approved the stipulation and did not specifically address the acquisition
23 adjustment. However, the resulting rates reflected the continued recognition of the

1 acquisition adjustment. Additionally, FCG provided direct testimony and supporting
2 analyses showing that the acquisition adjustment provided net savings to customers
3 and continued to be in the public interest. In its prehearing statement in this docket,
4 the OPC took no position on the acquisition adjustment issue.

5 The second occasion was in Docket No. 20220069-GU. This too was a rate case, but
6 unlike the 2017 case, this case was fully litigated before the Commission and the OPC
7 actively opposed the acquisition adjustment. The Commission once again approved
8 the continued recognition of the acquisition adjustment in rate base along with its
9 annual amortization expense. The Commission determined that the acquisition
10 adjustment was still in the public interest and relied upon its five-factor test to reach
11 its conclusion. I will address the five-factor test in greater detail in the following
12 section of my testimony.

13 **Q. What is your recommendation for the acquisition adjustment in the current rate**
14 **case?**

15 A. Based upon regulatory policy considerations and the facts as presented by Company
16 witness Everngam, I recommend that the Commission again approve the acquisition
17 adjustment resulting from the acquisition of FCG by AGL resources and that the
18 remaining unamortized balance be included in rate base along with the continued
19 recognition of its annual amortization.

20

21 **II. Acquisition Adjustments Overview**

22 **Q. What is an acquisition adjustment?**

1 A. According to Rule 25-30.0371, F.A.C. Acquisition Adjustments (“the Rule”), an
2 acquisition adjustment is defined as the difference between the purchase price of utility
3 system assets to an acquiring utility and the net book value of the utility assets. A
4 positive acquisition adjustment exists when the purchase price is greater than the net
5 book value. A negative acquisition adjustment exists when the purchase price is less
6 than the net book value.

7 **Q. Is Rule 25-30.0371, F.A.C. Acquisition Adjustments, applicable to electric and**
8 **gas utilities?**

9 A. Specifically, no; this Rule is applicable to water and wastewater utilities subject to the
10 Commission’s jurisdiction. However, the definition of an acquisition adjustment
11 should be the same for all industries regulated by the Commission.

12 **Q. Is there a similar rule on acquisition adjustments applicable to electric and gas**
13 **utilities?**

14 A. No, there is not. Acquisition adjustments in the water and wastewater industry occur
15 more frequently and have historically been a significant and contentious issue before
16 the Commission. The Rule was first adopted in 2002 to establish a consistent policy
17 upon which parties could rely and help remove some of the controversy surrounding
18 acquisition adjustments. The Commission then made amendments to the Rule in 2010
19 to provide even more clarity, especially regarding negative acquisition adjustments.
20 Then most recently in 2024, the Commission made substantial revisions affecting both
21 negative and positive acquisition adjustments.

22 **Q. What were the substantive revisions affecting positive acquisition adjustments?**

1 A. The Commission differentiated between positive acquisition adjustments for viable
2 and non-viable utilities. For the acquisition of a non-viable utility, the Rule sets out
3 six factors which must be considered to determine whether customers will benefit from
4 the acquisition. For the acquisition of a viable utility, the Rule adds a requirement to
5 demonstrate that the acquisition is projected to provide a positive cumulative present
6 value of the revenue requirements (CPVRR) over a 5-year period from the date of
7 acquisition. If the CPVRR does not result in a positive customer benefit over the 5-
8 year period, the Commission will consider six factors, essentially the same six factors
9 it initially considers for the acquisition of a non-viable utility. These factors include:

- 10 1. Anticipated improvements in quality of service and compliance with any
11 regulatory requirements;
- 12 2. Anticipated rate reductions or rate stability over the next 5 years from the date
13 of acquisition;
- 14 3. Anticipated cost savings;
- 15 4. Increased ability to attract capital at reasonable cost;
- 16 5. Lower overall cost of capital; and
- 17 6. Additional professional and experienced managerial, financial, technical, and
18 operational resources.

19 **Q. Do you believe that Rule 25-30.0371 provides guidance for the appropriate**
20 **regulatory treatment of positive acquisition adjustments for natural gas and**
21 **electric utilities?**

22 A. While not controlling, it does provide some guidance. The Rule establishes that a
23 positive acquisition adjustment shall be included in the utility's rate base if it can be

1 demonstrated that customers are anticipated to benefit from the transaction based on
2 both quantitative and qualitative considerations. The Rule further establishes a five-year
3 period as being appropriate to project anticipated quantitative benefits. And, in a
4 symmetrical fashion, the Rule further establishes the five-year period subsequent to
5 any order approving a positive acquisition adjustment as the appropriate period within
6 which reviews of the benefits can be made.

7 **Q. Should the quantitative and qualitative factors in Rule 25-30.0371 be the only**
8 **factors to be considered for the approval of a positive acquisition adjustment for**
9 **an electric or gas utility?**

10 A. No, these factors are only a guide. The ultimate test is whether the acquisition is in
11 the public interest such that the positive acquisition adjustment should be allowed in
12 rate base, or in this case, retained in rate base. The Commission should exercise its
13 considerable discretion in this area to encourage acquisitions which are in the public
14 interest and to discourage those which are not. By allowing a positive acquisition
15 adjustment in rate base for an acquisition that is in the public interest, the Commission
16 will encourage such transactions in both the near term and longer term.

17 **Q. Has the Commission addressed positive acquisition adjustments for utilities other**
18 **than water and wastewater companies?**

19 A. Yes, a good example is the acquisition of the Sebring Utility System by Florida Power
20 Corporation in Docket No. 920949-EU. In that case the Commission used its
21 considerable discretion to conclude that the acquisition was in the public interest. In
22 its Order No. PSC-92-1468-FOF-EU, the Commission stated:

1 It is our opinion that this acquisition will benefit all concerned, and thus
2 we will permit Florida Power Corporation to include a “going concern
3 value” for the purchase of the Sebring system in its rate base as a
4 positive acquisition adjustment.

5 **Q. What did the Commission mean by the term “going concern value”?**

6 A. In the context of its Order, the Commission was referring to the premium paid in
7 excess of book value as being attributable to Sebring’s going-concern value. In the
8 broader context, “going concern value” recognizes that an existing business with
9 customers, revenue streams, and a valued product is often worth more than the net
10 book value of its assets or market value of its individual assets. In accounting
11 terminology, this additional benefit is referred to as the existing business’ goodwill.

12 **Q. What do you mean by “goodwill”?**

13 A. In an accounting context, goodwill refers to an intangible asset representing the future
14 economic benefits arising from other assets acquired in a business combination that
15 are not individually identified and separately recognized.

16 **Q. Is the Commission prohibited from allowing a positive acquisition adjustment
17 that can be attributable to goodwill?**

18 A. No, it is not. Section 366.06, Florida Statutes, only prohibits the inclusion of goodwill
19 or going concern value to the extent it exceeds payments made by the acquiring utility.
20 Therefore, an arm’s length transaction to acquire the assets of another utility is a
21 situation where goodwill is potentially eligible for inclusion in rate base because a
22 quantifiable payment has been made. The effect of this statutory provision is to make
23 two points clear: (1) absent an acquisition, a utility’s rate base should be based on net

1 book value (original cost less accumulated depreciation); and (2) in the event of an
2 acquisition, the acquiring utility may not increase its rate base by more than what it
3 actually paid for the acquired assets.

4 **Q. On what basis did the Commission initially approve the acquisition adjustments**
5 **resulting from AGL Resources' acquisition of FCG in 2004?**

6 A. Similar to the considerations I identified in Rule 25-30.0371, the Commission
7 identified five factors useful in determining whether the acquisition was in the public
8 interest. The factors identified by the Commission were: (1) increased quality of
9 service; (2) lower operating costs; (3) increased ability to attract capital for
10 improvement; (4) lower overall cost of capital; and (5) more professional and
11 experienced managerial, financial, technical, and operational resources. Based on the
12 favorable outcomes of these factors, the Commission approved the acquisition
13 adjustment, subject to future reevaluation.

14 **Q. Was this the first time the Commission used these five factors to determine**
15 **whether an acquisition was in the public interest?**

16 A. No, the Commission used these factors as far back as 1990 when the Commission
17 approved a \$2.4 million acquisition adjustment in the acquisition of Southern Gas by
18 Peoples Gas in Docket No. 891353-GU.

19 **Q. Did the Commission approve the Southern Gas acquisition adjustment subject to**
20 **future review?**

21 A. Yes, the Commission made the associated revenues subject to refund in the
22 Company's next rate case. In People's next rate case, Docket No. 911150-GU, the
23 Commission made no refunds due to any unrealized benefits of the acquisition and did

1 not make the acquisition adjustment subject to further review in any future
2 proceedings.

3 **Q. Has the Commission made any other policy pronouncements in any other gas**
4 **company acquisitions?**

5 A. Yes, the Commission has recognized that its acquisition policy should provide an
6 incentive for acquisitions to take place which are in the public interest. In its Order
7 No. PSC-07-0913-PAA-GU, approving the acquisition adjustment for AGL
8 Resources' acquisition of FCG, the Commission stated: "Such an acquisition provides
9 an incentive for stronger companies to purchase weak or troubled companies."

10 **Q. Is the Commission's consideration limited to only the five factors that have**
11 **traditionally been used to evaluate gas utility acquisitions and associated requests**
12 **for acquisition adjustments?**

13 A. No. The Commission has broad discretion to determine whether an acquisition is in
14 the public interest. A good example of this can be found in Docket No. 20170235-EI,
15 involving the acquisition of Vero Beach Utilities ("Vero") by Florida Power & Light
16 ("FPL"). In this case, FPL presented evidence in support of the acquisition and in so
17 doing addressed each of the five factors traditionally considered by the Commission.
18 Instead of relying on these five factors, the Commission found there were other
19 extraordinary factors surrounding the acquisition of Vero by FPL and approved the
20 resulting acquisition adjustment as being in the overall public interest. The
21 Commission further declined to make the acquisition adjustment contingent on any
22 future review.

1 **Q. Are you suggesting that the Commission should disregard these five factors in its**
2 **review of the acquisition adjustments in FCG's current rate case?**

3 A. No, I am merely stating that the Commission has great discretion in determining
4 whether an acquisition adjustment is in the public interest. As such, the Commission
5 can consider all five factors, can consider some and not others (giving different weight
6 to different factors), or not consider any of the five factors at all. However, given that
7 the Commission's initial approval of the acquisition adjustment was based on the five
8 factors, it is logical and consistent to look at those same factors in the instant case.
9 Company witness Everngam will provide testimony showing that these same five
10 factors continue to show benefits to customers such that the acquisition adjustment
11 should remain in rate base and continue to be amortized consistent with the originally
12 approved amortization schedules.

13

14 **III. Subsequent Review**

15 **Q. Does Rule 25-30.0371 provide any other guidance relevant to gas utility**
16 **acquisitions?**

17 A. While this Rule is for water and wastewater utilities, I believe it does provide some
18 guidance. It allows the Commission to modify a positive acquisition adjustment
19 should the benefits justifying the adjustment not materialize. Such a review is not
20 required by the Rule and is at the discretion of the Commission. In addition, the
21 permissible period to conduct such a review is limited to within five years of the order
22 approving the acquisition.

23 **Q. Why is the review permissive and limited to five years?**

1 A. In my opinion, the Commission wanted to give some finality to such decisions and
2 provide reasonable assurances that once approved, a positive acquisition adjustment is
3 not the target of continued litigation. Such assurances are important to encourage
4 utilities to pursue beneficial acquisitions and to mitigate unnecessary regulatory
5 uncertainty. In addition, the Commission recognized that there should be a materiality
6 consideration and thus made any review permissive and not a requirement.

7 **Q. The Commission has routinely required a subsequent review of an initially**
8 **approved gas company acquisition adjustment, correct?**

9 A. Yes, the Commission has routinely done so, especially when the acquisition was
10 initially considered outside of a general rate proceeding as was the case for AGL
11 Resources' acquisition of FCG. Through subsequent reviews, the Commission has
12 gained assurances that the initially determined benefits of the acquisition continue and
13 that customer rates are fair and reasonable.

14 **Q. Do you agree with the use of subsequent reviews of acquisition adjustments?**

15 A. Yes, I generally agree when the circumstances call for it. It certainly depends on the
16 facts of each case and the degree to which the Commission is assured that an
17 acquisition is in the public interest. Another consideration would be the amount of
18 time that has elapsed between when the initial acquisition adjustment was approved
19 and when the subsequent review is undertaken. Of course, a subsequent review is not
20 required in all cases, such as the Vero acquisition by FPL that I earlier discussed. Also,
21 subsequent reviews should be balanced with other regulatory policy considerations.

22 **Q. What are some of these other regulatory policy considerations?**

1 They generally fall into three broad categories: 1.) Regulatory certainty and finality;
2 2.) Incentives for beneficial outcomes; and 3.) Avoidance of retrospective ratemaking.

3 **Q. What do you mean by regulatory certainty and finality?**

4 A. Regulatory certainty refers to a structure where all interested parties can have
5 confidence that decisions are consistent based upon Commission precedence and
6 policy and that similar factual situations will result in the same or essentially the same
7 outcomes. Regulatory finality refers to a recognition that at some point a decision
8 becomes final, not subject to continued litigation, and something upon which all
9 interested persons can base future decisions.

10 **Q. What do you mean by incentives for beneficial outcomes?**

11 A. An essential tool of effective regulation is the use of incentives to help achieve
12 beneficial outcomes. For example, as I earlier discussed, the acquisition of weak or
13 troubled companies by stronger and well-managed companies is a beneficial and
14 desirable regulatory outcome. This would also extend to situations where a company
15 may not be troubled, i.e. it is a viable utility, but whose customers would be better
16 served and receive service more efficiently from a larger, well-managed company.
17 Thus, a consistently applied acquisition adjustment policy with finality is a positive
18 regulatory incentive. At some point, a lack of finality for an acquisition adjustment
19 could promote regulatory uncertainty and thus act as a deterrent to such beneficial
20 acquisitions being undertaken and eventually presented to the Commission for
21 consideration. Policies that deter innovative alternatives from ever being considered
22 and presented to the Commission would constitute a failure of regulation.

23 **Q. What do you mean by retrospective ratemaking?**

1 A. Retrospective ratemaking is the use of new, after-the-fact information to second guess
2 or reevaluate a prior ratemaking decision. It can colloquially be referred to as
3 “Monday morning quarterbacking.” I do not intend to suggest that regulation cannot
4 ever reevaluate prior decisions. Certainly, there can be situations where this is not
5 only appropriate but required to ensure that rates remain fair and reasonable.
6 However, such reevaluations should be the exception, rather than the rule. This is
7 especially true when the only change is the passage of time and more certainty with
8 inputs to well-reasoned decisions that were based on the best information available at
9 the time.

10 **Q. Is the passage of time particularly relevant to subsequent reviews of acquisition**
11 **adjustments?**

12 A. Yes. An acquisition adjustment usually has an amortization period of from 15 to 30
13 years or roughly the remaining life of the physical assets being acquired. This is a
14 long timeframe within which many unanticipated changes can occur which could
15 materially impact the benefits initially achieved by an acquisition. Such unanticipated
16 changes, especially if they are beyond the control of management, should not be used
17 to reject a previously approved acquisition adjustment absent other extreme
18 extenuating circumstances. In addition to unanticipated changes, there can be
19 difficulties differentiating acquisition impacts from more routine changes that occur
20 as more time elapses. For example, it can be anticipated that changes will occur in
21 capital markets over time. The magnitude and direction of such capital market changes
22 along with their resulting impacts on a regulated utility’s capital structure and overall
23 cost of capital cannot be predicted with precision over the long-term. Given that two

1 of the five factors used to evaluate acquisition adjustments heavily depend on capital
2 markets, i.e., Increased ability to attract capital for improvements and Lower overall
3 cost of capital, it becomes increasingly more difficult to differentiate changes due to
4 an acquisition versus changes due to fluctuations in capital markets. This becomes
5 even more difficult as more time elapses between the initial approval of an acquisition
6 adjustment and the point at which a subsequent review is undertaken.

7 **Q. Are there any other considerations particularly relevant to the acquisition of**
8 **FCG by AGL Resources?**

9 A. Yes. It should be recognized that this pending rate case will make the third time that
10 this acquisition has been specifically evaluated by the Commission and that over 20
11 years have now elapsed since the time of the acquisition.¹ In every instance the
12 Commission has reaffirmed that the acquisition remains to be in the public interest.
13 As I earlier discussed, there is a need for regulatory certainty and finality. Certainly,
14 the acquisition of FCG by AGL Resources is a situation that calls for finality. In
15 addition, if Rule 25-30.0371 were applicable, subsequent reviews would be limited to
16 five years from the initial approval of the acquisition.

17

18 **IV. Post-Acquisition Issues**

19 **Q. Earlier you testified that the 2016 and 2018 acquisitions of FCG were at the**
20 **parent company level and did not affect FCG's retention of the approved**
21 **acquisition adjustment reflected on its books. Is this still your testimony?**

¹ I am excluding Docket No. 20170179-GU, given that it was resolved by a settlement. However, I also note that, prior to settlement, it was scheduled to be addressed under Issues 19 and 49, and was also the subject of staff data requests pertaining to the settlement.

1 A. Yes, it is.

2 **Q. Are you aware of OPC's appeal to the Florida Supreme Court of the**
3 **Commission's decision in Docket No. 20220069-GU to continue recognition of the**
4 **previously approved acquisition adjustment resulting from the 2004 acquisition**
5 **of FCG by AGL Resources?**

6 A. Yes, I am. OPC took the position that the Commission was bound by "policy" to
7 discontinue its previously approved acquisition adjustment. OPC cited a 2000 water
8 and wastewater case and asserted that this case took away the Commission's discretion
9 with regard to FCG.

10 **Q. Are you familiar with this 2000 water and wastewater case?**

11 A. Yes, I participated in this case as a Commissioner. It involved a limited proceeding
12 rate filing by Sun Communities (Sun). During the course of this limited proceeding,
13 an acquisition adjustment issue arose concerning Sun Communities' acquisition of the
14 assets of Water Oak Utilities, the previous owner of the system in question.

15 **Q. Did the issue involve a positive or a negative acquisition adjustment?**

16 A. It actually involved both a positive and a negative acquisition adjustment. Staff's audit
17 revealed that the positive acquisition adjustment that was booked by Sun was never
18 approved by the Commission. As such, absent evidence to the contrary, the positive
19 acquisition adjustment was removed. The issue with the negative acquisition was
20 more involved.

21 **Q. How was it more involved?**

22 A. There was a long history involving the previous owner, Water Oak Utilities and its
23 previous status as a developer-owned utility as part of Water Oak Estates. Issues

1 revolved around the appropriate amount of Service Availability Charges and included
2 a settlement and the waiving of the requirements of Rule 25-30.580. In conjunction
3 with the issues over the Service Availability Charges was a reassessment and the
4 subsequent correction of the previously booked acquisition adjustments.

5 **Q. Did the Commission’s Order adequately describe the facts and history of the**
6 **situation?**

7 A. Yes, it did. In fact, in an apparent effort to simplify a rather convoluted situation,
8 Order No. PSC-00-1165-PAA-WS (the Sun Order) contained four concise
9 summarizing statements (numbered 1 through 4) which appear on pages 16 of the
10 Order. The fourth statement reads: 4) *Acquisition adjustments do not survive*
11 *subsequent purchases. This is further discussed below.* This fourth statement seemed
12 innocuous at the time and did not receive any discussion. However, it is this single
13 statement upon which OPC relies to assert that the Commission now has no discretion
14 with regard to FCG’s previously approved acquisition adjustment.

15 **Q. Why do you believe this statement was considered innocuous and received no**
16 **meaningful discussion?**

17 A. Let me be clear. I cannot and will not attempt to explain what was the perspective of
18 the other Commissioners. However, from my perspective, I viewed it as an ad hoc
19 addition to this four-item list to add some clarity. I did not find it objectionable and
20 certainly did not consider it an irrevocable statement of new or changed policy that
21 would have ramifications of such magnitude and consequence as asserted by OPC.

22 **Q. Why did you not find it objectionable?**

1 It was not objectionable because it simply states a simple axiom: When the same assets
2 giving rise to an acquisition adjustment are subsequently purchased in a new
3 acquisition, the original acquisition adjustment must re-evaluated in a de novo
4 assessment to determine whether there needs to be another acquisition adjustment and
5 whether it should be positive or negative and in what amount. This de novo review is
6 necessary to protect customers and preserve that which is in the public interest.
7 Moreover, given that Sun had not requested that the negative acquisition adjustment
8 be continued, but we were requiring that it be carried forward and converted to CIAC,
9 rendered the overall impact of the statement that much more innocuous.

10 **Q. Was this the result obtained by the Commission in its Order No. PSC-00-1165-**
11 **PAA-WS (the Sun Order)?**

12 A. Yes, it was. The Commission reviewed the entire factual situation from the time the
13 assets were part of a developer-owned utility until the time the assets were acquired
14 by Sun. The Commission did not simply erase the previous negative acquisition
15 adjustment. Rather the exact amount of the negative acquisition adjustment was
16 converted to CIAC. This was done to protect customers. The Order states: *We find*
17 *that the best methodology to protect the utility's customers, by keeping them whole, is*
18 *as follows. Sun Communities shall convert the previously approved negative*
19 *acquisition adjustment to CIAC. This would lower the utility's rate base thus*
20 *protecting the customers' interests.*

21 **Q. Is there another statement in this Order which better encapsulates the**
22 **Commission's policy?**

1 A. Yes, there is a statement that clearly states that customers should be protected and that
2 they should remain in the same basic position. The Order states: *In determining the*
3 *appropriate treatment of this adjustment, we are faced with the dilemma of ensuring*
4 *that the interests of the customers are protected by making sure they remain in the*
5 *same position after the recent transfer as they were in before the transfer occurred.*

6 **Q. Would OPC's assertion to the Florida Supreme Court result in FCG's customers**
7 **remaining in the same position after the subsequent transfers?**

8 A. No, FCG's customers would not remain in the same position. It would appear that
9 OPC's assertion to the Court is in conflict with the very Order upon which they base
10 their argument.

11 **Q You earlier stated that you did not view the Sun Order as setting forth new or**
12 **changed policy. Why so?**

13 A. Based on my experience, new or changed policy is established in one of two ways,
14 either through individual cases referred to as "insipient policy" or through formal
15 rulemaking. When insipient policy is created it is normally done through a series of
16 cases where the policy is fully vetted and refined over a series of cases. After this
17 process, the policy is usually adopted in a formal rulemaking proceeding. One of the
18 major deficiencies of insipient policy is that all potentially affected parties are not on
19 notice and likely unable to gain needed due process to have their interests protected.
20 This is especially critical when a single statement within one industry order is used to
21 affect policy for all industries. Certainly, FCG was unaware of such policy potential
22 in the Sun limited proceeding and obviously did not intervene to protect its interests.
23 Quite frankly I, as a participating Commissioner, did not imagine that the Sun limited

1 proceeding could possibly be the mechanism for establishing or changing Commission
2 policy.

3 **Q. You stated that when insipient policy is used that the relevant policy**
4 **considerations should be fully vetted. Was this done in the Sun limited**
5 **proceeding?**

6 A. No, it was not. Recall this was a limited proceeding with little if any hearing time
7 (other than perhaps customer service hearings). The first mention of the four summary
8 statements and the consequential statement number four was in Staff's
9 recommendation dated May 4, 2000. There was no discussion in Staff's
10 Recommendation concerning the potential policy ramifications of its statement
11 number four. Staff's discussion got included within the Sun Order virtually verbatim.
12 Neither was there any discussion among Commissioners concerning policy
13 ramifications at the Agenda Conference. In essence, there was no material vetting by
14 the Commission of this perceived significant policy statement.

15 **Q. Was this perceived policy statement ever adopted in Commission Rules?**

16 A. No, it was not. And unlike the gas industry, the Commission has detailed Rules
17 concerning the proper recognition and treatment of acquisition adjustments for the
18 water and wastewater industry. In fact, the Commission has conducted several
19 comprehensive revisions to its Rule governing water and wastewater utilities'
20 acquisition adjustments since the Sun Order was issued on June 27, 2000 and has
21 consistently chosen not to codify this OPC-perceived policy.

22 **Q. What does this tell you?**

1 A. This tells me that OPC's attempt to interpret statement number four as a fully vetted
2 policy which should be applied to FCG is tenuous at best and at worse a blatant attempt
3 to bootstrap it to fit its narrative in a singularly-focused attempt to reduce FCG's
4 revenue requirement.

5 **Q. What do you mean by established Commission policy for gas utility acquisitions?**

6 A. I am referring to two significant policies that have been described and consistently
7 adhered to by the Commission in many cases over many years. The first and perhaps
8 most significant policy is to encourage all acquisitions that benefit customers by
9 providing an increased quality of service and/or more efficient operations leading to
10 rates lower than they otherwise would be absent the acquisition. The second is the
11 Commission's policy in advancing policy number one. The Commission does this by
12 utilizing a five-factor test to evaluate the outcome of a proposed acquisition. The
13 factors identified by the Commission are: (1) increased quality of service; (2) lower
14 operating costs; (3) increased ability to attract capital for improvement; (4) lower
15 overall cost of capital; and (5) more professional and experienced managerial,
16 financial, technical, and operational resources.

17 **Q. How does OPC's assertion at the Supreme Court violate Commission policy?**

18 A. OPC would place a significant roadblock that would substantially diminish or
19 eliminate the Commission's ability to effectively encourage beneficial acquisitions.
20 They do this by automatically eliminating beneficial acquisition adjustments in the
21 event there is a subsequent acquisition, with no evaluation of the potential merits of
22 any future acquisition. Companies evaluating a potential acquisition would be reticent
23 realizing that a significant investment could be automatically eliminated. It is ironic

1 that OPC's assertion (purportedly to maintain Commission policy) actually violates
2 Commission policy.

3 **Q. Was the Sun Order the only order referenced by OPC to support its assertion at**
4 **the Supreme Court?**

5 A. No. Order No. PSC-05-1242-PAA-WS included the Sun Order in a footnote on page
6 21. Consequently, it was also cited by OPC.

7 **Q. Are you familiar with this Order?**

8 A. Yes. It approved the sale of assets from Florida Water Services (FWS) to Aqua
9 Utilities Florida (Aqua) in Docket Nos. 040951-WS and 040952-WS. I will refer to
10 this Order as the FWS Order. Like the Sun Order, I also participated as a
11 Commissioner for the FWS Order.

12 **Q. Does the FWS Order support the OPC assertions at the Supreme Court?**

13 A. No, it does not. In fact, it supports the antithesis position that a subsequent acquisition
14 should be evaluated on its own merits consistent with Commission policy.

15 **Q. Please Explain.**

16 A. Aqua was seeking approval of the purchase of the assets of FWS and was seeking a
17 rate base at the same level as existed on FWC's books, even though Aqua's purchase
18 price was below FWS' rate base.

19 At the time of purchase, FWS had a net positive acquisition adjustment of \$169,006
20 (\$309,914 less accumulated amortization of \$140,908). The rate base of FWS at the
21 time of purchase was determined to be \$15,741,914, which did not include the net
22 positive acquisition adjustment of \$169,006. This is consistent with the axiom I stated
23 earlier in my testimony: *When the same assets giving rise to an acquisition adjustment*

1 *are subsequently purchased in a new acquisition, the original acquisition adjustment*
2 *and must re-evaluated in a de novo assessment to determine whether there needs to be*
3 *another acquisition adjustment and whether it should be positive or negative and in*
4 *what amount.*

5 In the FWS to Aqua acquisition a de novo assessment was conducted consistent with
6 Commission policy as provided in Rule 25-30.0371(3). This Rule provided that a
7 purchase price within 80% of rate base would allow continued recognition of the
8 existing rate base on the books of the acquiring company. This policy was adopted to
9 encourage acquisitions. Since Aqua’s purchase price of \$13,038,951 was within 80%
10 of the rate base, the existing rate base was continued. In economic reality, Aqua
11 avoided a \$2,702,963 negative acquisition adjustment (\$15,741,914 rate base less
12 purchase price of \$12,593,531). By operation of the Rule, no acquisition adjustment
13 appears on the books of the acquiring utility. This is another way that the Rule
14 encourages acquisitions, because there would no longer be continuing litigation on any
15 acquisition adjustment in future Commission proceedings. This is in sharp contrast to
16 OPC’s arguments that FCG’s acquisition adjustment should be continually litigated,
17 even some twenty years now since the original acquisition adjustment was approved
18 by the Commission.

19 **Q. Did the FWS Order also address regulatory assets that were previously approved**
20 **for FWS?**

21 A. Yes, it did. At the time of transfer to Aqua, FWS had regulatory assets approved which
22 resulted from a remand from the First DCA and a subsequent settlement to avoid

1 customer surcharges. OPC argued that the associated regulatory assets, being another
2 type of an intangible asset, should not be transferred to Aqua.

3 **Q. What did the Commission decide?**

4 A. The Commission allowed the transfer of combined regulatory assets in the amount of
5 \$664,192 to be transferred to Aqua and amortized over ten years.

6 **Q. In your axiom you reference the case of the acquisition of the assets of one utility
7 by a successor utility. Was that the case for the acquisitions addressed by the Sun
8 Order and the FWS Order?**

9 A. Yes, both of these orders addressed the acquisition of the assets of one utility by a
10 successor utility.

11 **Q. Do either of the subsequent acquisitions of FCG with which OPC takes issue
12 involve the purchase of specific utility assets?**

13 A. No. As I described earlier, both the 2016 acquisition by the Southern Company and
14 the 2018 acquisition involving NextEra were both at the parent-company level.

15 **Q. In your opinion do either the Sun Order or the FWS Order provide any precedent
16 or Commission policy guidance for the subsequent FCG acquisitions?**

17 A. No.

18 **Q. Could adoption of OPC's position have consequences beyond the FCG situation?**

19 A. Yes, there is a potential for adverse consequences harming customers.

20 **Q. Please explain.**

21 A. OPC's position is founded on its perception that there has been a violation of policy
22 which crosses industry boundaries. This is not particularly troublesome for the water
23 and wastewater industry because there is a detailed Rule which governs acquisition

1 adjustments. Specifically, this is Rule 25-30.037 that I identified and discussed earlier
2 in my testimony. However, there is no such policy guidance (or guardrails) codified
3 in a rule for either the gas or electric industries. Thus, under OPC's position, all other
4 utilities in Florida would be subject to OPC's policy interpretation of the Sun Order,
5 covering both positive and negative acquisition adjustments. The FCG situation
6 involves a positive acquisition adjustment and OPC's advocacy to have it eliminated
7 is obvious – eliminating a positive acquisition adjustment reduces rate base and lowers
8 revenue requirements. However, for another electric or gas utility that may have a
9 negative acquisition adjustment, adherence to OPC's position would have the opposite
10 impact – an increased rate base and a higher revenue requirement. This could result
11 in a perverse incentive to transfer ownership of the utility with a negative acquisition
12 adjustment to a new parent company owner. Under OPC's perceived policy derived
13 from the Sun Order, the negative acquisition adjustment would automatically
14 disappear. This would result in an increased rate base and a higher revenue
15 requirement burden on customers with no discernable benefits being identified and
16 justified. Under OPC's interpretation, this would simply be a fait accompli.

17 **Q. Are you familiar with the term GAAP?**

18 A. Yes, it is an acronym for Generally Accepted Accounting Principles. In the United
19 States the Financial Accounting Standards Board (FASB) is the recognized authority
20 for defining GAAP. FASB does this by its Accounting Standards Codification (ASC)
21 process.

22 **Q. Does the FASB recognize the need for accounting standards applicable to**
23 **regulated entities?**

1 A. Yes, there is ASC 980 addressing GAAP for regulated utilities. The general take away
2 is that FASB gives great weight to decisions of regulatory boards. It is generally
3 recognized that through its decisions a regulatory board can either create an asset or
4 impair the existence of an asset. The goal of FASB is to have financial statements that
5 most accurately reflect the true economic impacts of regulatory decisions. More
6 specifically in regard to acquisition adjustments, they are recognized consistent with
7 the regulatory board's decisions to either allow or disallow them. For example, as
8 long as the regulatory board keeps a positive acquisition adjustment in rate base it is
9 appropriately included in the utility's financial statements. Should the Commission
10 eliminate a positive acquisition from rate base, GAAP would require it to be written
11 off. The goal is to best reflect the economic consequences of regulatory board
12 decisions.

13 **Q. Would the purchase of a regulated utility from one holding company to another**
14 **holding company automatically require any positive acquisition adjustments to**
15 **be written off?**

16 A. No, it would depend on the actions of the regulatory board in response to the transfer.

17 **Q. Do you have any concluding thoughts on the interactions between GAAP and**
18 **regulatory policy?**

19 A. Yes, I do. The Commission has a statutory mandate to regulate in the public interest.
20 It must base its decisions on those statutory requirements and the evidence presented
21 to it. It cannot abdicate its responsibilities to FASB in some myopic view to always
22 be in compliance with GAAP. Fortunately, the FASB recognizes the role of regulatory
23 authorities and generally interprets GAAP to be consistent with regulatory decisions.

1 In a perhaps oversimplified conclusion, regulatory decisions should dictate outcomes
2 under GAAP, not the other way around.

3

4 **V. Conclusion**

5 **Q. What are your conclusions regarding the previously approved acquisition**
6 **adjustment resulting from the AGL Resources acquisition of FCG?**

7 A. My conclusions are:

8 • The decision to include or exclude an acquisition adjustment should be based
9 on a determination of public interest and the Commission has great discretion
10 in determining what is in the public interest.

11 • While there is no given checklist of factors that must be considered in every
12 case, the five factors that were initially considered should once again be the
13 basis for the Commission's current review.

14 • Based on these five factors previously used by the Commission, the testimony
15 of Company witness Everngam demonstrates that the acquisition continues to
16 provide benefits sufficient to reaffirm the continued inclusion of the acquisition
17 adjustment in rate base along with its annual amortization.

18 • Subsequent reviews of previously approved acquisition adjustments are
19 discretionary, depending on the facts of each case. Imposing a subsequent
20 review of an approved positive acquisition adjustment should only be done
21 when the facts and circumstances require it and should be balanced with other
22 regulatory considerations. These considerations include: 1.) Regulatory

1 certainty and finality; 2.) Incentives for beneficial outcomes; and 3.)
2 Avoidance of retrospective ratemaking.

3 • The passage of time can complicate subsequent reviews of previously
4 approved acquisition adjustments. It should be noted that approximately
5 twenty years have elapsed since the Commission initially approved the
6 acquisition of FCG by AGL Resources.

7 • Given the totality of the facts and circumstances in this case and the regulatory
8 policies considerations I discuss, I recommend that the acquisition adjustment
9 resulting from the AGL Resources acquisition of FCG be approved without the
10 need for additional subsequent reviews.

11 • Neither the Sun Order nor the FWS Order have any relevance or regulatory
12 guidance with regard to FCG's existing acquisition adjustment.

13 • Regulatory decisions should dictate outcomes under GAAP, not the other way
14 around.

15 **Q. Does this conclude your testimony?**

16 A. Yes, it does.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Testimony of Terry Deason has been furnished by Electronic Mail to the following parties of record this 20th day of April, 2026:

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