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**DANIEL PEREZ**  
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April 24, 2026

**VIA: ELECTRONIC FILING**

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

**Docket No. 20260000-OT- Summary of the OPC's Review of 2025 Annual Reports for Possible Water and Wastewater Overearnings.**

Dear Mr. Teitzman:

The intent of this letter is to advise the Commission and its Staff of the Office of Public Counsel's (OPC) summary of its review of possible water and wastewater overearnings for the reporting year 2025.

There were over 40 annual reports not available for water and/or wastewater utilities on the Commission's website for review on April 15, 2026. Rule 25-30.110(3)(c), states the following:

A utility may file a written request for an extension of time to file its annual report with the Commission's Division of Accounting and Finance no later than March 31. One extension of 30 days will be automatically granted upon request. A request for a longer extension must be accompanied by a statement of good cause, such as financial hardship, severe illness, or significant weather events such as hurricanes, but good cause does not include reasons such as management oversight or vacation time, and must specify the date by which the report will be filed.

(Underline emphasis added)

There was only one letter requesting an extension posted on the Commission's website through April 15, 2026, from KW Resort Utilities (see Attachment A). For transparency purposes, the OPC respectfully requests that the Commission Staff should post on the Commission's website, like it did for KW Resorts Utilities, all annual report extension requests letters of water and/or wastewater utilities in order for the OPC and general public to be aware of such extensions and the anticipated filing date of the annual reports.

By June, 2026, the OPC will review the remaining 40-plus annual reports (unavailable as of April 15, 2026) and follow-up if necessary on any observed possible overearnings. However, prior to that time, ***the OPC strongly urges that the Commission Staff to return any 2026 Price Index and/or Pass-Through Applications for any these 40-plus utilities***, if their respective 2025 Annual Report reflects possible overearnings at a level equal to or greater than the requested increase.

Based on a review of 2025 Annual Reports for water and wastewater utilities available on the FPSC's website through April 15, 2026, there are possible overearnings reported for the following nine companies:

1. A Utility Inc.,
2. Citrus Waterworks, Inc.,
3. East Marion Utilities, LLC,
4. Environmental Protection Systems of Pine Island, Inc.,
5. Keen Sales, Rentals and Utilities, Inc.,
6. Kirby D. Morgan, Inc.,
7. Lake Yale Utilities, LLC,
8. McLeod Gardens Utilities, LLC, and
9. West Lakeland Wastewater, LLC.

Although other water and wastewater utilities reported possible overearnings, the amounts were immaterial.

***A Utility Inc.***

A Utility Inc. (AUI or Utility) is a Class C utility serving 119 residential water customers in Pasco County. The service area is located in the Southwest Florida Water Management District (SWFWMD). The water system was initially built in 1963 to serve the residents of Tropical Trailer Park in Zephyrhills, Florida. The Utility was granted an original certificate in 1974 and was subsequently transferred four times before being transferred to AUI on May 20, 2021.<sup>1</sup> By Order No. PSC-2021-0183-PAA-WU, issued May 20, 2021, the Commission approved the transfer of Certificate No. 165-W from Allen LaFortune and Otis Fonder to AUI.

The following table reflects the possible overearnings since 2024.

Line No.	Description	Issued Date	Water NOI/(NOL)	Water Rate Base	Achieved ORR	ORR Using Operating Ratio	Water Possible OE	OE % of Revenues
1	<a href="#">WU980-25-AR</a>	3/27/26	\$4,687	\$13,427	34.91%	12.00%	(\$3,076)	9.24%
2	<a href="#">WU980-24-AR</a>	4/9/2025	\$4,610	\$14,131	32.62%	12.00%	(\$2,914)	9.36%

The following table reflects the grant price index revenue increases for AUI which totals a collective revenue increase of \$2,552 for six price indices since 2010. The table also reflects a limited proceeding revenue increase of \$8,588 in 2023.

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<sup>1</sup> Order No. 6020, issued February 4, 1974, in Docket No. 1974037-W, *In re: Application of John W Beeman for a certificate to operate a water utility in Pasco County, Florida*; Order No. 6998, issued November 14, 1975, in Docket No. 1974544-W, *In re: Application for transfer of water utility d/b/a Tropical Utilities and Certificate No. 165-W from John W Beeman to Fisher Ames and his wife, Helen Ames, in Pasco County, Florida*; Order No. 10151, issued July 21, 1981, in Docket No. 19800253-W, *In re: Application for the transfer of Certificate No. 165-W from Fisher Ames and His Wife, Helen Ames, to Dale Hendryx, in Pasco County*; Order No. 11946, issued May 19, 1983, in Docket No. 19830048-W, *In re: Application for transfer of Certificate No. 165-W from Dale Hendryx to Barbara Cobb in Pasco County, Florida*; Order No. 19163, issued April 18, 1988, in Docket No. 19871156-WU, *In re: Application for transfer of Certificate No. 165-W from Melvin Cobb to Allen LaFortune and Otis Fonder (Tropical Park Water System) in Pasco County* (Order No. PSC-2021-0183-PAA-WU, pages 1-2).

Line No.	WS No. or Docket No.	Type	Amount Granted	Effective Date
1	WS-2020-0052	INDEX	\$172	07/31/2020
2	WS-2021-0019	INDEX	\$152	05/31/2021
3	WS-2022-0086	INDEX	\$614	9/20/2022
4	20210098-WU	SARC	\$8,588	6/10/2023
5	WS-2023-0062	INDEX	\$490	9/7/2023
6	WS-2024-0032	INDEX	\$730	06/01/2024
7	WS-2025-0047	INDEX	\$394	07/20/2025

Section 367.081(4)(d), Florida Statutes (F.S.), states:

If, within 15 months after the filing of a utility's annual report required by s. 367.121, the commission finds that the utility exceeded the range of its last authorized rate of return on equity after an adjustment in rates as authorized by this subsection was implemented within the year for which the report was filed or was implemented in the preceding year, the commission may order the utility to refund, with interest, the difference to the ratepayers and adjust rates accordingly. This provision shall not be construed to require a bond or corporate undertaking not otherwise required.

Based on the reported overearnings on the 2024 Annual Report filed April 9, 2025, the Commission Staff should not have permitted AUI's 2025 Price Index of \$394 to take effect on July 20, 2025. However, pursuant to section 367.081(4)(d), F.S., the Commission should order AUI to refund with interest the 2025 Price Index of \$394 granted on July 20, 2025. Further, based on the reported overearnings on the 2025 Annual Report filed March 27, 2026, the Commission Staff should not entertain any 2026 Price Index Application for AUI. Therefore, the OPC recommends that the Commission Staff should request an attachment of revenues letter from AUI while the Commission Staff investigates the possible overearnings above the 2025 Price Index of \$394. OPC also respectfully requests Commission Staff to keep the OPC in the loop

by forwarding all information requested of, and received from, AUI including any Staff informal earnings analysis workpapers prepared and/or to be prepared

***Citrus Waterworks, Inc.***

Citrus Waterworks, Inc. (Citrus) provides water service to approximately 162 residential customers, in single family and mobile homes, located in two communities, Blackwater Heights and Ellsworth Point. Citrus also services one general service customer. Wastewater service is provided by septic tank.

On May 28, 2024, the Board of County Commissioners of Citrus County (County) passed and adopted Resolution No. 2024-040 (Resolution), transferring regulation of the privately-owned, for-profit water and wastewater utilities in Citrus County to the Commission. Effective upon the adoption of the Resolution, all non-exempt water and wastewater systems in Citrus County became subject to the provisions of Chapter 367, Florida Statutes (F.S.). By Commission Order No. PSC-2024-0267-FOF-WS, the Commission acknowledged the Resolution.<sup>2</sup> By Order No. PSC-2025-0041-PAA-WU, issued February 6, 2025, the Commission approved the grandfather certificate, rates, and charges.

The following table reflects the possible overearning in 2025.

Description	Issued Date	Water NOI/(NOL)	Water Rate Base	Water Achieved ORR	ORR Using Max ROE	Water Possible OE	OE % of Revenues
<a href="#">WU994-25-AR</a>	3/2/2026	\$14,879	\$111,246	13.37%	8.38%	(\$5,561)	9.82%

<sup>2</sup> Order No. PSC-2024-0267-FOF-WS, issued July 25, 2024, in Docket No: 20240095-WS, *In re: Resolution of the Board of County Commissioners of Citrus County declaring Citrus County subject of the provisions of Sections 367, F.S.*

Based on the reported overearnings on the 2025 Annual Report filed March 2, 2026, the Commission Staff should not entertain a 2026 Price Index Application for Citrus. Further, the OPC recommends that the Commission Staff should request an attachment of revenues letter from Citrus while the Commission Staff investigates the possible overearnings. OPC also respectfully requests Commission Staff to keep the OPC in the loop by forwarding all information requested of and received from Citrus including any Staff informal earnings analysis workpapers prepared and/or to be prepared.

***East Marion Utilities, LLC***

East Marion Utilities, LLC (East Marion) is a Class C utility serving approximately 149 water customers and 137 wastewater customers in Marion County. East Marion was originally certificated in 1987. In 1990 and 1997, there were transfers of majority organizational control. The Commission approved the transfer of Certificate Nos. 490-W and 425-S to East Marion by Order No. PSC-15-0576-PAA-WS.<sup>3</sup>

The following table reflects the possible overearning in 2025.

				Water			Wastewater	Total WAW	ORR Using	Total	
Description	Issued Date	Water NOI/(NOL)	Water Rate Base	Achieved ORR	Wastewater NOI/(NOL)	Wastewater Rate Base	Achieved ORR	Achieved ORR	Max ROE	Possible OE	OE % of Revenues
<a href="#">WSS970-25-AR</a>	3/27/26	\$15,860	\$61,750	25.68%	(\$4,966)	\$14,328	-34.66%	14.32%	6.82%	(\$5,706)	3.80%

The following table reflects East Marion rate changes.

<sup>3</sup> Order No. PSC-15-0576-PAA-WS, issued December 21, 2015, in Docket No. 150091-WS, *In re: Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utilities, LLC, in Marion County.*

Line No.	WS No. or Docket No.	Type	System	Amount Granted	Effective Date
1	10869-WS	SARC	W	\$6,112	09/04/2002
2			S	\$12,961	
3	WS-07-0131	INDEX	W	\$562	02/01/2008
4			S	\$613	
5	WS-09-0115	INDEX	W	\$685	10/20/2009
6			S	\$1,048	
7	WS-14-0042	INDEX	W	\$317	08/29/2014
8			S	\$434	
9	WS-14-0042	FYR	W	(\$393)	08/29/2014
10			S	(\$393)	
11	WS-15-0145	INDEX	W	\$400	10/01/2015
12			S	\$493	
13	150257-WS	SARC - INTERIM	W	\$4,316	02/15/2016
14			S	\$0	
15	150257-WS	SARC	W	\$4,685	05/10/2017
16			S	\$3,744	
17	WS-18-0062	INDEX	W	\$487	07/15/2018
18			S	\$381	
19	WS-2019-0062	INDEX	W	\$627	07/27/2019
20	WS-2019-0062	INDEX	S	\$482	07/27/2019
21	20200152-WS	LARI	W	\$2,717	11/18/2020
22	20200152-WS	LARI	S	\$2,586	11/18/2020
23	20150257-WS	FYR	W	(\$170)	05/11/2021
24	20150257-WS	FYR	S	(\$169)	05/11/2021
25	WS-2021-0034	INDEX	W	\$303	06/19/2021
26	WS-2021-0034	INDEX	S	\$345	06/19/2021
27	WS-2022-0036	INDEX	W	\$1,324	6/1/2022
28			S	\$1,333	6/1/2022
29	WS-2023-0079	INDEX	W	\$2,330	10/1/2023
30		INDEX	S	\$2,407	10/1/2023
31	WS-2024-0030	INDEX	W	\$1,082	6/1/2024
32		INDEX	S	\$1,241	6/1/2024
33	20200152-WS	FYR	W	(\$499)	11/18/2024
34			S	(\$368)	11/18/2024
35	WS-2025-0023	INDEX	W	\$2	6/1/2025
36		INDEX	S	\$1	6/1/2025

The above table reflects the granted price index revenue increases for East Marion which equaled total collective water and wastewater revenue increases of \$14,231 and \$8,778, respectively, for 11 price indices since 2010. The table also reflects a limited proceeding revenue increase of \$8,588 in 2008. East Marion was granted two SARC revenue increases in 2002 and

2017, which equaled total collective water and wastewater revenue increases of \$10,797 and \$16,705, respectively. Also, East Marion was granted one LARI revenue increase in 2020 which equaled a collective water revenue increase of \$2,717 and a collective wastewater revenue increase of \$2,586. Further, East Marion had two FYR in 2014 and 2024, which equaled a water revenue decrease of (\$1,062) and a wastewater revenue decrease of (\$930).

Based on the reported overearnings on the 2025 Annual Report filed March 27, 2026, the Commission Staff should not entertain a 2026 Price Index Application for East Marion. Therefore, the OPC recommends that the Commission Staff should request an attachment of revenues letter from East Marion while the Commission Staff investigates the possible overearnings. OPC also respectfully requests Commission Staff to keep the OPC in the loop by forwarding all information requested of and received from East Marion and any Staff informal earnings analysis workpapers prepared and/or to be prepared.

***Environmental Protection Systems of Pine Island, Inc.***

Environmental Protection Systems of Pine Island, Inc. (EPS) is a Class C wastewater utility serving approximately 462 customers in Cherry Estates and R.V. Park in St. James City, which is located at the southern end of Pine Island, approximately 30 miles from Fort Myers. The following table reflects the possible overearnings since 2021.

Description	Issued Date	Wasteater NOI/(NOL)	Wasteater Rate Base	Wastewater Achieved ORR	ORR Using Max ROE	Wastewater Possible OE	OE % of Revenues
<a href="#">SU287-25-AR</a>	3/31/2026	\$13,396	\$155,201	8.63%	4.50%	(\$6,412)	7.56%

The following table reflects the grant price index and pass-through revenue increases for EPS which totals a collective revenue increase of \$2,552 for six price indices since 2007.

Line No.	WS No. or Docket No.	Type	Amount Granted	Effective Date
1	WS-07-0107	INDEX/PT	\$9,746	10/15/2007
2	WS-08-0140	INDEX	\$2,700	02/17/2009
3	WS-09-0135	INDEX	\$2,532	12/01/2009
4	WS-11-0085	P-T	\$3,843	10/07/2011
5	WS-12-0052	INDEX/PT	\$6,068	10/01/2012
6	WS-13-0109	INDEX	\$1,898	
7		P-T	\$1,905	
8	WS-14-0064	INDEX	\$1,696	10/01/2014
9		P-T	\$2,705	10/01/2014
10	WS-15-0130	INDEX	\$2,321	10/01/2015
11	WS-16-0081	INDEX	\$1,837	10/01/2016
12	WS-2017-0071	INDEX	\$2,172	10/01/2017
13	WS-2018-0086	INDEX	\$2,639	10/01/2018
14	WS-2019-0077	INDEX	\$3,255	10/01/2019
15	WS-2020-0072	INDEX	\$2,567	11/01/2020
16	WS-2021-0086	INDEX	\$1,691	11/1/2021
17	WS-2022-0067	INDEX	6,990	8/1/2022
18	WS-2023-0061	INDEX	\$10,944	9/3/2023
19	WS-2024-0073	INDEX	\$5,212	10/1/2024
20		PT	\$3,585	10/1/2024
21	WS-2025-0030	INDEX	\$4,141	5/31/2025
22		PT	\$4,229	5/31/2025

Based on the reported overearnings on the 2025 Annual Report filed March 31, 2026, the Commission Staff should not entertain any 2026 Price Index Application for EPS. Therefore, the OPC recommends that the Commission Staff should request an attachment of revenues letter from EPS while the Commission Staff investigates the possible overearnings. OPC also respectfully requests Commission Staff to keep the OPC in the loop by forwarding all

information requested of and received from EPS and any Staff informal earnings analysis workpapers prepared and/or to be prepared.

***Keen Sales, Rentals and Utilities, Inc.***

Keen Sales, Rentals and Utilities, Inc. (Keen) is a Class C water utility operating in Polk County. Keen currently owns and operates two water systems in Polk County: Earlene and Ray Keen and Ellison Park Subdivisions (Keen Subdivision) and Lake Region Paradise Island (Paradise Island). Keen Subdivision provides water service to approximately 123 customers. Keen Subdivision was granted a grandfather certificate in 1997.<sup>4</sup> last rate case was in 2009. Paradise Island provides water service to approximately 98 customers. The Florida Public Service Commission (Commission) approved the transfer of the facilities of Lake Region Paradise Island to Keen in 2000.<sup>5</sup> Keen Subdivision’s and Paradise Island’s last rate case was in 2022 for which the Commission determined separate revenue requirements for them, as well as established separate and distinct rates for them.<sup>6</sup> Since 2022 rate case, Keen Subdivision has not requested any price index or pass-through revenue increases.

The following table reflects the possible overearnings for the Keen Subdivision in 2025.

Description	Issued Date	Water NOI/(NOL)	Water Rate Base	Water Achieved ORR	ORR Using Max ROE	Water Possible OE	OE % of Revenues
<u>WU771-25-AR</u>	3/27/26	\$12,327	\$40,182	30.68%	8.00%	(\$9,112)	10.74%

Based on the reported overearnings on the 2025 Annual Report filed March 27, 2026, the Commission Staff should not entertain a 2026 Price Index Application for Keen Subdivision.

<sup>4</sup> Order No. PSC-1997-0152-FOF-WU, issued February 11, 1997, in Docket No. 19961007-WU, *In re: Application of Keen Sales & Rentals, Inc. for Certificate under Grandfather Rights to Provide Water Service in Polk County.*

<sup>5</sup> Order No. PSC-2000-0913-PAA-WU, issued May 8, 2000, in Docket No. 19970201-WU, *In re: Application for transfer of facilities of Lake Region Paradise Island and amendment of Certificate No. 582-W held by Keen Sales, Rentals and Utilities, Inc. in Polk County.*

<sup>6</sup> Order No. PSC-2023-0218-PAA-WU, issued July 31, 2023, in Docket No. 20220157-WU, *In re: Applications for staff-assisted rate case in Polk County by Keen Sales, Rentals and Utilities, Inc.*

Therefore, the OPC recommends that the Commission Staff should request an attachment of revenues letter from Keen Subdivision while the Commission Staff investigates the possible overearnings. OPC also respectfully requests Commission Staff to keep the OPC in the loop by forwarding all information requested of and received from Keen Subdivision and any Staff informal earnings analysis workpapers prepared and/or to be prepared.

***Kirby D. Morgan, Inc. (Kirby)***

In its letter dated November 21, 2025,<sup>7</sup> in Docket No. 20250000-OT, OPC relayed the following information, substantially reproduced below and lightly edited for clarity:

Kirby was organized on May 1, 1995, and provides wastewater service to approximately 219 residential customers, in single family homes, located in Eastside Village. Water service is provided by the city of Lake City. The following table reflects the possible overearnings since 2021.

Description	Wastewater NOI	Wastewater Rate Base	Wastewater Achieved ORR	ORR Using Max ROE	Possible OE	OE % of Revenues
<a href="#">SU973-24-AR</a> 2023 AR Not Received	\$15,928	\$59,237	26.89%	9.51%	(\$10,295)	9.05%
2022AR -Columbia County	51,394	22,152	232.01%	8.84%	(49,436)	44.86%
2021AR -Columbia County	<u>43,209</u>	<u>23,096</u>	<u>187.09%</u>	<u>8.85%</u>	<u>(41,165)</u>	<u>37.72%</u>
Total	<u>\$110,531</u>	<u>\$104,485</u>	<u>105.79%</u>	<u>9.07%</u>	<u>(\$100,895)</u>	<u>30.30%</u>

The OPC’s calculated overall required rates of return of 9.51% for 2024, 8.84% for 2022, and 8.85% for 2021 were derived using the Commission’s respective leverage formulas for those years. The following is a timeline of events associated with Kirby’s possible overearnings.

<sup>7</sup> For this letter, please see Document No. 15204-2025, filed November 21, 2025.

<b>Timeline of Events</b>	
Date	Description
5/16/2024	Columbia County voted to transfer the regulation of all private utilities in the County to the FPSC by and through Resolution No. 2024R-13.
6/5/2024	Email from Fletcher with the OPC to Vogel with the FPSC: 1) forwarding Kirby's 2021 and 2022 Annual Reports filed with Columbia County; 2) informing that the Utility's achieved overall returns were 232% for 2022 and 187% for 2021; 3) inquiring if the Commission Staff would request Kirby to provide its 2023 Annual Report.
6/18/2024	Email from Fletcher to Vogel following up whether the Commission Staff would be requesting Kirby to provide its 2023 Annual Report, and, if so, requesting that the PDF file of the annual report be emailed to the OPC once received.
6/18/2024	Email from Vogel to Fletcher stating that the Commission Staff will be asking for the 2023 annual report and will forward the response to the OPC.
6/25/2024	Email from Fletcher to Vogel stating following: "When the 2023 Annual Report was requested, was there a deadline given for Kirby D. Morgan, Inc. to provide said report? If so, what is the deadline? If not, has Kirby D. Morgan, Inc. given you an anticipated date on when their 2023 Annual Report will be provided to the Commission? Given the 2021 and 2022 reported achieved returns, I am interested in what they reported 2023 achieved return is for possible overearnings purposes."
6/28/2024	Email from Fletcher to Vogel stating following: "I'm just following up on my email on Tuesday below."
7/1/2024	By Order No. PSC-2024-022-FOF-WS, the FPSC acknowledged Columbia County's Resolution No. 2024R-13 to transfer the regulation of all private utilities in the County to the FPSC.
4/8/2025	By Order No. 2025-0121-FOF-SU, the FPSC granted Kirby's grandfather certificate.
4/18/2025	Kirby filed its 2024 Annual Report with the FPSC.

In its letter dated February 27, 2026,<sup>8</sup> in Docket No. 20260000-OT, OPC stated the following information, substantially reproduced below and lightly edited for clarity:

The intent of this letter is to follow-up with the Commission Staff to the Office of Public Counsel's (OPC) letter dated November 21, 2025 (Attachment A). The OPC continues to have a concern about possible overearnings for Kirby D. Morgan, Inc. (Kirby or Utility). On December 12, 2025, the OPC and Commission Staff had a conference call meeting to discuss possible

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<sup>8</sup> For this letter with attachments, please see Document No. 01339-2026, filed February 27, 2026.

overearnings for several utilities – including Kirby. Attachment B contains emails with attachments regarding Kirby.

Schedule W-3 of the Utility's 2024 Annual Report reflects total O&M expenses of \$85,377, which represents \$389.85 per customer in annual O&M expenses. Kirby previously did not report any salary for the owner in the past. The Utility first reported salary in the amount of \$20,000 for two new employees for half a year in its 2024 Annual Report, which represents 23.43% of the total O&M expenses. All other things being equal to reflect a full year salary of \$40,000 for the two new employees, this amount represents 46.85% of the 2024 total annual O&M expenses and \$481.17 per customer in annual O&M expenses.

The Profit and Loss Comparison provided by the Utility reflects O&M expenses of \$103,813 (Total Expenses of \$106,465 less Payroll Taxes of \$2,502 less Taxes and Licenses of \$150) including \$26,666.72 for salaries from January 2025 through August 2025, which equates to \$474.03 per customer O&M expenses for this 8-month period. It also reflects a line-item expense of \$18,174.95 for "EQUIPMENT" and \$2,057.69 for "Dues and Subscriptions" that did not occur in the January 2024 through August 2024 period. The Profit and Loss Comparison provided by the Utility reflects O&M expenses of \$45,501.73 (Total Expenses of \$49,689.73 less Payroll Taxes of \$365, less Taxes and Licenses of \$800, less County Regulatory Fees of \$3,023 including \$3,333.34 for salaries from January 2024 through August 2024, which equates to \$207.77 per customer in O&M expenses for this 8-month period.

The Profit and Loss Comparison provided by the Utility between January 2024 through August 2024 and January 2025 through August 2025 reflects a total O&M expense increase of \$58,311.27 or 128.15%. Total non-salary O&M expenses increased by \$34,977.89 or 82.95%. The OPC would note that the increased non-salary O&M expenses do not relate to a DEP permit renewal as the Utility's current permit was issued September 18, 2017, with an effective date of January 4, 2018, and an expiration date of January 3, 2028. An email dated January 29, 2026, from Commission Staff to the OPC, repeated a statement by the Utility's consultant to the effect that new 2025 expenses included: 1) approximately \$5,000 each year for the preparation of the

Utility's Annual Report to be filed with the Commission; Sewer Operator at \$9,000; and Sewer Utility Groundkeeper at \$2,400.

Regarding the new \$5,000 for Annual Report Preparation by Millian, Swain & Associates, Inc., the OPC would note that the Utility's 2023 Annual Report filed with Columbia County was never obtained by the OPC or Commission Staff. However, the Utility's 2021 and 2022 Annual Reports were obtained from Columbia County by the OPC.<sup>9</sup> Based on the respective Schedules F-7 on those annual reports and the 2024 Annual Report, Odom, Moses & Company LLP was responsible for the preparation of the annual reports and were paid \$2,238 in 2021, \$2,297 in 2022, and \$6,600 in 2024. The 2024 amount of \$6,600 represents an increase of \$4,303 or 187.33% from the 2022 amount of \$2,297. The \$5,000 amount for Millian, Swain & Associates, Inc. represents a non-salary O&M expense decrease of \$1,600 or 24.24% over the \$6,600 amount paid to Odom, Moses & Company LLP in 2024 but an increase of \$2,703 or 117.68% from the 2022 amount of \$2,297.

With regard to the \$9,000 for the Sewer Operator, the OPC would note that Kirby paid the same person as the Sewer Operator \$9,065 in 2022, which represents a decrease of \$65. Regarding the Sewer Utility Groundskeeper at \$2,400, the OPC would note that the same amount was paid to the same person, as reflected on Schedule F-7 in the Utility's 2021 and 2022 Annual Reports. In 2024 Annual Report, it reflects "total payments for services rendered by other than employees" of \$15,560 (\$6,600+\$2,800+\$6,160) on Schedule F-7 and reflects a total of \$28,300 (\$6,800+\$21,500) for Account 730 - Contractual Services Professional and Other. The difference between these amounts is \$12,740. Given this difference, the Sewer Operator and Sewer Utility Groundskeeper services expenses should also be included in the total amount of \$21,500 for Account 730 - Contractual Services Professional and Other on Schedule S-3.

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<sup>9</sup> By email dated April 15, 2024, the OPC provided the Commission Staff with the Utility's 2022 Annual Report filed with Columbia County.

Based on the above, the 2025 expenses for Millian, Swain & Associates, Inc., the Sewer Operator, and Sewer Utility Groundskeeper services do not explain the total non-salary O&M expenses increase of \$34,977.89 or 82.95% between January 2024 through August 2024 and January 2025 through August 2025. Further, the OPC has concerns regarding potential non-recurring expenses associated with the non-salary expense increase for the 8-month period in 2025. Rule 25-30.433(9), Florida Administrative Code, states “[n]on-recurring expenses shall be amortized over a 5-year period unless a shorter or longer period of time can be justified.”

The OPC researched similar wastewater-only utilities as Kirby with a wastewater treatment plant, no purchased wastewater treatment expense, no reuse provision, and no other affiliate-regulated water/wastewater entities. Based on the respective 2024 Annual Reports filed with the Commission, the following table represents their respective O&M expenses, customers, and annual per customer O&M expenses.

Line No.	Company Name	O&M Expense	Customers	O&M Per Customer
1	Fairmount Utilities, the 2nd, Inc.	\$116,876	441	\$265.02
2	Kirby D. Morgan, Inc.	\$85,377	219	\$389.85
3	LIFE-Zachary Taylor, LLC d/b/a Zachary Taylor Waterfront RV Resort	\$69,040	189	\$365.29
4	Vantage Oaks Utility, LLC	\$51,826	175	\$296.15
5				
6	Totals	\$323,119	1,024	\$315.55

As the above table indicates, the utility similar to Kirby is LIFE-Zachary Taylor, LLC d/b/a Zachary Taylor Waterfront RV Resort (LIFE) on an annual O&M expense per customer basis. However, based on a comparison of Schedule F-2 of the two utilities’ 2024 Annual Reports, the OPC would note that LIFE was organized in 1978, while Kirby was organized in 1995. Based on a search on the Florida DEP Oculus database, the previous owner for Facility Site ID FLA001402 (Kirby’s facility) received a certification of completion of the wastewater

treatment plant's (WWTP) construction on November 18, 1985. LIFE would be expected to have more maintenance related expenses for its WWTP, given that it was organized 7 years prior to the completion of Kirby's WWTP construction. The table below reflects the remaining undepreciated plant investment as 2024 year-end for LIFE and Kirby.

Line No.	Account No.	Account Name	LIFE	Kirby
1	354	Structures and Improvements	\$0	\$16,759
2	355	Power Generation Equipment	0	26,042
3	360	Collection Sewers - Force	0	20,000
4	361	Collection Sewers - Gravity	41,822	49,671
5	363	Services to Customers	0	1,516
6	364	Flow Measuring Devices	0	0
7	370	Receiving Wells	5,635	0
8	371	Pumping Equipment	905	23,434
9	380	Treatment and Disposal Equipment	0	50,131
10	393	Tools, Shop and Garage Equipment	<u>1,175</u>	<u>500</u>
11	101	Total Plant	<u>\$49,537</u>	<u>\$188,053</u>
12				
13	108	Accumulated Depreciation	<u>(\$48,768)</u>	<u>(\$153,178)</u>
14				
15		Total Net Plant	<u>\$769</u>	<u>\$34,875</u>
16				
17		% of Undepreciated Plant	<u>1.55%</u>	<u>18.55%</u>

Further, based on Schedule S-4 of their respective 2024 Annual Reports, LIFE has two lift stations each with one-horsepower (HP) pumps and seven manholes, and Kirby has three lift stations with two 3HP-pumps and one 2HP-pump and 34 manholes. However, based on a comparison of Schedule S-5 of the two utilities' respective 2024 Annual Reports, the OPC would note that LIFE's WWTP permitted capacity is 40,000 gallons per day (GPD) and treated 10,876,000 million gallons in 2024, and Kirby's WWTP capacity is 25,000 GPD and treated 5,110,000 million gallons in 2024. Given that LIFE treated wastewater gallons is 576,000 gallons or 112.84% more than Kirby, LIFE should conceivably have more variable costs for chemicals than Kirby.

In addition, the OPC has a concern regarding the collective salary amount of \$40,000 for the two new employees in 2025. The following table is the OPC’s assessment of the hours and shared duties for the two new employees.

Line No.	Duties	Estimated Annual Hours	Reason
1	Maintaining the sewer database. Coordinating estoppels with bookkeeper	0-10	No other revenues reported in 2021, 2022, and 2024 for initial connections, late payments,
2	for customers moving in and out, tracking home sales, implementing liens		reconnections on Schedule F-3 in 2021, 2022, and 2024 Annual Reports. No other revenues
3	when needed for non-payment.		reported on P&L Comparison Jan-Aug '24 & '25 that the Utility provided to Commission Staff
4			
5	Coordinate with vendors, regarding competitive bids for equipment	208	No plant additions reported on Schedule S-1 in 2021, 2022, and 2024 Annual Reports. 4 hours
6	replacements/repairs. Coordinating with Sewer Operator, Cameron Young		average a week because it only involves coordination with Sewer Operator and vendors. Sewer
7			Operator is the authorized Agent of the Utility that submits DMRs and Daily Sample Results based
8			on a review of the Florida DEP Oculus database.
9			
10	Maintain sewer lift stations, main plant and grounds through working with	208	4 hours average a week because it only involves coordination with vendors who actual perform
11	vendors to pressure clean, paint, general property maintenance (lawn		the pressure clean, paint, general property maintenance (lawn maintenance, tree cutting/trimming,
12	maintenance, tree cutting/trimming, pressure cleaning etc.)		pressure cleaning etc.)
13			
14	Weekly pay vendor received invoices - accounts payable	240	Assumption of 120 AP Vendor Invoices a month at 10 minutes per vendor payment processing.
15			
16	Collection of past due accounts, including mailings and door to door visits	0-10	No other revenues reported in 2021, 2022, and 2024 for late payments on Schedule F-3 and
17	and telephone calls.		no bad debt expense on Schedule S-3 in 2021, 2022, and 2024 Annual Reports. No other revenues
18			reported on P&L Comparison Jan-Aug '24 & '25 that the Utility provided to Commission Staff.
19			
20	Handle incoming calls from both customers or vendors	171	Assumption of 6% of 219 customer base calls a week at 15 minutes a call average.
21			
22	Coordinate with accountants for proper submitting of required forms,	208	4 hours average a week for RAF Forms and Annual Reports. Income tax returns would be for non-
23	Annual Reports, income tax returns, etc.		utility purposes because the Utility is a sub-corporation per Sch. F-2 of 2024 Annual Report.
24			
25	<b>OPC Total Collective Hours for Above Shared Duties</b>	<b><u>1,055</u></b>	
26			
27	<b>Utility Total Collective Hours for Above Shared Duties</b>	<b><u>2,080</u></b>	
28			
29	<b>Collective Adjustment</b>	<b><u>(1,025)</u></b>	
30			

When equally splitting the total 1,055 hours referenced in the table above among the two new employees, the OPC calculated total annual hours for each new employee of 527.5 hours, which equates to 10.14 hours average per week. Using the average 10.14 hours per week, the OPC calculated annual salary for each new employee of \$10,143.83 or \$20,287.65 collectively,

for 2025. The 2025 collective amount of \$20,287.65 represents a difference of \$19,712.35 from the Utility’s 2025 \$40,000 salary for the two new employees.

Using the average 10.14 hours per week, the OPC calculated annual salary for each new employee of \$5,071.92 or \$10,143.83 collectively, for 2024. The 2024 collective amount of \$10,143.83 represents a difference of \$9,856.17 from the 2024 Utility’s \$20,000 salary for the two new employees for half of the year. Thus, the OPC calculated 2024 revised possible overearnings for this salary adjustment alone is depicted in the table below.

<b>Description</b>	<b>Wastewater NOI</b>	<b>Wastewater Rate Base</b>	<b>Wastewater Achieved ORR</b>	<b>ORR Using Max ROE</b>	<b>Possible OE</b>	<b>OE % of Revenues</b>
2024 Annual Report	\$25,784	\$59,237	43.539%	9.51%	(\$20,151)	17.72%

In addition, given the age of the Utility’s force and gravity mains, the OPC would suggest that there is a potential for excessive infiltration and inflow (I&I) for this system. The table below reflects the OPC’s attempt to assess and calculate the existence of excessive I&I for Kirby.

Line No.	Main Diameter (1)	Main Length Feet (1)	Miles	Allowance @ 500 gpd /incb-dia/mile gpd	GPY
1	2" - Rosewood	2,000	0.3787879	379	
2	3" - Willow	800	0.1515152	152	
3	3" - Sable	1,000	0.1893939	189	
4	8" -Rosewood	3,700	0.7007576	701	
5	8" - Willow	1,200	0.2272727	227	
6	8" - Sable	<u>6,400</u>	<u>1.2121212</u>	<u>1,212</u>	
7	Total	<u>15,100</u>	<u>2.8598485</u>	<u>2,860</u>	1,043,845
8	Estimated Inflow @10% of gallons sold (2)				638,750
9	Allowable I&I				405,095
10					
11	Actual I&I Wastewater Treated (3)				5,110,000
12				Estimated Returned	
13	SFR Resendial WW customers		5,110,000	80%	4,088,000
14					
15	Estimated I&I (treated less returned)				1,022,000
16	Actual I&I less allowable				616,905
17	Excess I&I				616,905
18	Excess as % of Wastewater Treated				12.07%
19					
20				Chemicals (4)	\$0
21				Purchased Power	\$6,246
22				Excessive I&I Adjustment	(\$754)
23	<b>Notes:</b>				
24	(1) The source of the main diameter sizes and main lengths is from Schedule S-4 of the				
25	2024 Annual Report.				
26	(2) The OPC estimated that the gallons of water sold by Lake City was 20% more than the				
27	total wastewater gallons treated - by dividing the 5,110,000 gallons by 80%.				
28	(3) The source of the total gallons of wastewater treated is from Schedule S-5 of the				
29	2024 Annual Report.				
30	(4) The Utility does not record any amount in Account 718 Chemicals in its 2021, 2022,				
31	and 2024 Annual Reports. Because Chemicals are needed under the Utility's DEP Permit				
32	in order to treat the raw sewage, the Chemicals expense must be recorded in another				
33	expense account, perhaps it is captured in Miscellaneous Expenses for 2024 of \$14,368.				

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Finally, on Kirby's 2024 Annual Report, the OPC would note that the Utility reported residential gross revenues of \$113,691 on Schedule F-3 and starting and ending numbers of customers of 217 and 219, respectively, on Schedule S-3. Using 2,604 (217\*12) bills at the authorized flat rate of \$44.09, this conservatively yields annualized residential gross revenues of \$114,810, which is \$1,119 greater than the 2024 reported amount of \$113,691. . . . .

On February 27, 2026, the OPC sent Commission Staff an email with attaching this letter which is reflected below.

**From:** Bailey, Stephanie <[BAILEY.STEPHANIE@leg.state.fl.us](mailto:BAILEY.STEPHANIE@leg.state.fl.us)>  
**Sent:** Friday, February 27, 2026 3:44 PM  
**To:** Cassie Gatlin <[CGatlin@psc.state.fl.us](mailto:CGatlin@psc.state.fl.us)>; Matthew Vogel <[MVogel@PSC.STATE.FL.US](mailto:MVogel@PSC.STATE.FL.US)>; Amber Norris <[amnorris@psc.state.fl.us](mailto:amnorris@psc.state.fl.us)>  
**Cc:** Trierweiler, Walt <[TRIERWEILER.WALT@leg.state.fl.us](mailto:TRIERWEILER.WALT@leg.state.fl.us)>; Charles Rehwinkel <[rehwinkel.charles@leg.state.fl.us](mailto:rehwinkel.charles@leg.state.fl.us)>; Fletcher, Bart <[FLETCHER.BART@leg.state.fl.us](mailto:FLETCHER.BART@leg.state.fl.us)>; Howard, Bernadette <[HOWARD.BERNADETTE@leg.state.fl.us](mailto:HOWARD.BERNADETTE@leg.state.fl.us)>  
**Subject:** Docket # 20260000-OT OPC's Follow-Up on Possible Wastewater Overearnings for Kirby D. Morgan

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good afternoon,

Attached please find OPC's letter filed with the PSC this afternoon.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

*Stephanie Bailey*

Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
Main Phone: 850.488.9330  
Direct: 850.717.0335

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On March 5, 2026, the OPC received an email from the Commission Staff which is reflected below.

**From:** Cassie Gatlin <[CGatlin@psc.state.fl.us](mailto:CGatlin@psc.state.fl.us)>  
**Sent:** Thursday, March 5, 2026 4:31 PM  
**To:** Bailey, Stephanie <[BAILEY.STEPHANIE@leg.state.fl.us](mailto:BAILEY.STEPHANIE@leg.state.fl.us)>; Fletcher, Bart <[FLETCHER.BART@leg.state.fl.us](mailto:FLETCHER.BART@leg.state.fl.us)>  
**Subject:** RE: Docket # 20260000-OT OPC's Follow-Up on Possible Wastewater Overearnings for Kirby D. Morgan

Good afternoon,

We have received the letter and staff is reviewing.

Thank you,

**Cassie Gatlin**  
Public Utilities Supervisor  
Florida Public Service Commission  
[cgatlin@psc.state.fl.us](mailto:cgatlin@psc.state.fl.us)  
(850) 413-6420

On March 24, 2026, the OPC followed up via email with Commission Staff which is reflected below.

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**From:** Fletcher, Bart  
**Sent:** Tuesday, March 24, 2026 3:20 PM  
**To:** 'Cassie Gatlin' <CGatlin@psc.state.fl.us>  
**Cc:** Rehwinkel, Charles <REHWINKEL.CHARLES@leg.state.fl.us>  
**Subject:** RE: Docket # 20260000-OT OPC's Follow-Up on Possible Wastewater Overearnings for Kirby D. Morgan

Good afternoon,

As a follow-up to the OPC letter dated February 27, 2026, what is the status of Staff's review of possible overearnings for the above-referenced utility?

I realized that after the February 27, 2026-letter that the Utility filed its 2025 Annual Report on March 5, 2026, reflecting a net operating loss of \$4,391 on Schedule F-3 and reflected total plant additions of \$22,492 for power generation equipment and flow measuring devices on Schedule S-1, even though Kirby anticipated no future improvements to its system on Schedule S-6 of the 2024 Annual Report and having no plant additions for several years prior to 2025. The OPC still has concerns with the \$40,000 in salaries for 2025, as well as the other concerns regarding non-recurring expenses and possible excessive I&I mentioned in the February 27, 2026-letter.

I would note the following additional points. First, Kirby still anticipated no future improvements to its system on Schedule S-6 of the 2025 Annual Report. Second, the materials and supplies expense increased by \$2,293 or 106.26% over the 2024 amount of \$2,158, while keeping in mind the 2021 and 2022 level of materials and supplies of \$2,423 and \$2,503, respectively, were far more in the ballpark to the 2024 level than the 2025 amount. Third, miscellaneous expense increased by \$4,940 or 34.38% over the 2024 amount of \$14,368.

After February 27, 2026-letter, please forward the OPC any additional information requested of and received from the Utility and any Staff informal earnings analysis workpapers, including I&I analysis, performed.

Best Regards,  
*Bart Fletcher*  
*Legislative Analyst*  
Office of the Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
(850) 488-9330  
(850) 717-0337 Direct Line

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On March 26, 2026, the Commission Staff sent the OPC the following below.

**From:** Cassie Gatlin <CGatlin@psc.state.fl.us>  
**Sent:** Thursday, March 26, 2026 11:36 AM  
**To:** Fletcher, Bart <FLETCHER.BART@leg.state.fl.us>  
**Cc:** Rehwinkel, Charles <REHWINKEL.CHARLES@leg.state.fl.us>; Amber Norris <amnorris@psc.state.fl.us>; Matthew Vogel <MVogel@PSC.STATE.FL.US>; Mark Cicchetti <MCICCHET@PSC.STATE.FL.US>  
**Subject:** RE: Docket # 20260000-OT OPC's Follow-Up on Possible Wastewater Overearnings for Kirby D. Morgan

Good morning,

Thank you for your concerns and analysis regarding the potential overearnings for 2024 of Kirby D. Morgan. However, staff is declining to open a formal docket. Based on the data in Kirby's 2025 Annual Report, the Utility does not reflect overearnings. We believe this sufficiently addresses the concern on a prospective basis.

In reviewing the Office of Public Counsel's analysis, staff also reviewed data for class C wastewater utilities. For 2024, the average O&M expense was \$116,031, Kirby's O&M Expense was \$85,377. For 2024, the average cost of O&M expense per customer is \$490 and Kirby's was \$390.

We would like to also bring to your attention that staff is currently evaluating potential overearnings reported by St. Joe Natural Gas and FPUC – Electric. Staff has requested a formal letter acknowledging Jurisdiction of Potential Overearnings and information of the cause of the potential overearnings and if the Companies are projected to continue overearning. Once we receive correspondence from the Companies we will forward it to the Office of Public Counsel.

Thank you,

**Cassie Gatlin**  
Public Utilities Supervisor  
Florida Public Service Commission  
[cgatlin@psc.state.fl.us](mailto:cgatlin@psc.state.fl.us)  
(850) 413-6420

The OPC has several observations regarding the Commission Staff's March 26, 2026, email.

*Declining to Open Formal Docket*

To address "declining to open a formal docket," the OPC understands Commission Staff's hesitation here. The OPC is very cognizant of potential regulatory commission expense associated with opening a formal earnings docket because it could offset the amount of potential overearnings. However, the OPC would point out that in the past, the Commission Staff has conducted informal or undocketed earnings investigations that encompassed an audit performed by the Commission's Office of Auditing and Performance Analysis. For example, as reflected in Order No. PSC-2012-0389-PAA-SU, pages 1-2, issued July 27, 2012, it states, in pertinent part, the following:

On August 18, 2011, we initiated an undocketed earnings investigation and commenced an audit of the Utility. The purpose of the audit was to compile and audit the Utility's rate base, capital structure, and net operating income for the 13-month average test year ended December 31, 2010.

On August 26, 2011, Utilities, Inc., Mid-County's parent company, filed a corporate undertaking in the amount of \$181,909 for the purpose of guaranteeing potential refunds in connection with the Commission staff's undocketed earnings investigation.

On October 24, 2011, the audit report for Mid-County was completed. ...

(With footnote 3 omitted)

On October 24, 2011, based on the results of the audit report, the Commission Staff opened a formal docket, Docket No. 20120076-SU,<sup>10</sup> which was over two months after the Commission Staff initiated an undocketed earnings investigation. Further, as covered later in this letter, the OPC points out that Subsection C of Provision 13.02 of the Commission's Administrative Procedures Manual also mentions "undocketed overearnings cases." If the

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<sup>10</sup> *In re: Investigation of rates of Mid-County Services, Inc. in Pinellas County for possible overearnings.*

Commission Staff's reluctance to conduct even an informal and/or undocketed earnings investigation with an audit, stems from a belief that the \$40,000 in salaries and wages for Kirby is appropriate, the OPC requests that the Commission Staff specifically convey such position in writing.

*2025 Annual Report Not Reflecting Overearnings*

To address Commission Staff's statement, "[b]ased on the data in Kirby's 2025 Annual Report, the Utility does not reflect overearnings," the OPC acknowledges this annual report reflects a net operating loss of \$4,391. As discussed in detail previously by the OPC, this loss position is reflected because the salaries and wages went from zero in 2023 to \$40,000 in 2025 which represents 35.86% of the total O&M expenses of \$111,556 in 2025. If the OPC proposed salaries and wages of \$20,287.65 as addressed in its February 27, 2026, letter were taken into account, all other things being equal, it produces a net income of \$15,321 or an achieved overall rate of return of 19.13%.

In further support of its position on the level of salaries and wages, the OPC points out that Kirby's employee salaries and wages of \$40,000 is \$16,813, or 172.51% greater than Kirby's collective contractual services expenses of \$23,187 that includes the duties for the wastewater plant operator, bookkeeping services, and accounting services. In addition, for comparative purposes, the Commission Staff recommended contractual services specifically for management fees of \$18,813 in Docket No. 20250088-WU (Water Oak SARC). Kirby's salaries and wages of \$40,000 is \$21,187, or 212.62% greater than Water Oak's management fees of \$18,813. The OPC would further note that Kirby has 219 wastewater customers in Columbia County and Water Oak has approximately 1,300 water customers in Lake County.

*Sufficiently Addresses Overearnings Concern on a Prospective Basis*

To address "[w]e believe this sufficiently addresses the concern on a prospective basis," the OPC assumes the Commission Staff's position is that the \$40,000 for salaries and wages in

2025 is an appropriate amount for this utility. If so, the OPC requests all analysis and documentation relied on by the Commission Staff for its position.

*Commission Staff's Review of Class C Data*

In its March 26, 2026, email, the Commission Staff stated, in pertinent part, the following:

In reviewing the Office of Public Counsel's analysis, staff also reviewed data for class C wastewater utilities. For 2024, the average O&M expense was \$116,031, Kirby's O&M Expense was \$85,377. For 2024, the average cost of O&M expense per customer is \$490 and Kirby's was \$390.

This response does not address the OPC's previously raised concerns regarding non-recurring expenses pursuant to Rule 25-30.433(9), F.A.C. and possible excessive I&I. If Commission Staff utilized data of all of the Commission-regulated Class C wastewater utilities to determine its average cost of O&M expense per customer as a comparative baseline for Kirby, the OPC would caution that the average for all Class C wastewater utilities should only be utilized as a high-level sanity check and not for the disposition of possible overearnings for Kirby. The OPC is curious whether that average includes wastewater utilities on barrier islands, with reuse systems, and/or resellers with significant pass-through purchased wastewater expense beyond their control. As mentioned in its February 27, 2026, letter, this is why the OPC attempted to provide the Commission Staff with a more comparable baseline for wastewater utilities with a wastewater treatment plant, no purchased wastewater treatment expense, no reuse provision, and no other affiliate-regulated water/wastewater entities like Kirby.

The OPC would note, based on Schedule S-3 of its 2024 Annual Report and if it was included, an example that skews that average of \$490 of per customer O&M expense is Applegate Utility LLC which reflected O&M expense of \$62,994 and 88 customers equating to \$715.84 of per customer O&M expense. In addition, based on Schedule S-3 of its 2024 Annual Report and if it was included, another example that skews that average of \$490 of per customer O&M expense is CAP Utilities LLC which reflected O&M expense of \$105,651 and 189 customers equating to

\$559 of per customer O&M expense. Further, based on Schedule S-3 of its 2024 Annual Report and if it was included, another example that skews that average of \$490 of per customer O&M expense is Orange Blossom Utilities, Inc which reflected O&M expense of \$84,364 and 45 customers equating to \$1,874.76 of per customer O&M expense. Lastly, based on Schedule S-3 of its 2024 Annual Report and if it was included, another example that skews that average of \$490 of per customer O&M expense is St. James Island Utility Company which reflected O&M expense of \$496,576 and 91 customers equating to \$5,456.88 per customer of O&M expense.

Given the above and for transparency purposes, the OPC requests the Commission Staff provide some clarity about the specific data used, as well as its analysis that calculated its average per customer cost of O&M expense of \$490. In addition, as requested in its March 24, 2026, email, the OPC renews the request that the Commission Staff forward any additional information requested of, and received from, Kirby and any Staff informal earnings analysis workpapers, including I&I analysis performed, after the OPC letter dated February 27, 2026. Once the requested information is received and if the Commission Staff still declines to initiate an undocketed earnings investigation, including a Staff audit, the OPC will need to evaluate whether it needs to request the Commissioners to open formal docket on this matter on behalf of Kirby's customers.

Further, given OPC's outstanding overearnings concerns, the OPC urges caution in considering any approval of a 2026 Price Index or Pass-Through Application for Kirby until an informal and/or undocketed earnings investigation is completed by Commission Staff.

### ***Lake Yale Utilities, LLC***

Lake Yale Utilities, LLC (Lake Yale) is a Class C utility providing water and wastewater services to approximately 391 residential customers and two general service customers in Lake County. The Utility also provides irrigation service to 88 of its residential customers. By Order No. PSC-2023-0192-PAA-WS, issued June 30, 2023, Lake Yale was granted 5% and 20% rate increases for water and wastewater, respectively, in a LARI. Lake Yale was granted a price index

increase of \$2,516 for water and \$2,421 for wastewater effective June 1, 2024. Further, Lake Yale had one FYR effective April 18, 2025, which equaled a water revenue decrease of (\$395).

As stated in OPC’s letter dated November 21, 2025, in Docket No. 20250000-OT, Lake Yale reported an achieved overall return of 6.20% for water and 100.63% for wastewater according to its 2024 Annual Report. On a total company basis, the reported achieved overall return is 31.25% equating to \$29,265 of possible overearnings which represent 12.93% of operating revenues. The OPC’s 2024 calculated overall required rate of return of 6.17% was derived by: 1) a calculated weighted average cost of long-term debt of 6.39%; 2) zeroing out the negative common equity amount of \$116,629 consistent with Commission practice, and 3) a 2% cost rate for customer deposits pursuant to Rule 25-30.311, Florida Administrative Code (F.A.C). However, the customers were refunded \$50,007<sup>11</sup> associated with the 12-month period ended August 31, 2024, for its 2022 limited alternative rate increase granted by the Commission which exceeded the \$29,265 identified above for possible overearnings in 2024 calendar year.

The following table reflects the possible overearnings in 2025.

		Total		Total	ORR Using	Total	
Description	Issued Date	NOI/(NOL)	Total Rate Base	Achieved ORR	Max ROE	Possible OE	OE % of Revenues
<a href="#">WS976-25-AR</a>	3/27/26	\$15,323	\$112,105	13.67%	6.15%	(\$8,426)	4.12%

Based on the reported overearnings on the 2025 Annual Report filed March 27, 2026, the Commission Staff should not entertain a 2026 Price Index Application for Lake Yale. Therefore, the OPC recommends that the Commission Staff should request an attachment of revenues letter from Lake Yale while the Commission Staff investigates the possible overearnings. OPC also respectfully requests Commission Staff to keep the OPC in the loop by forwarding all information requested of and received from Lake Yale and any Staff informal earnings analysis workpapers prepared and/or to be prepared.

<sup>11</sup> Document No. 01211-2026, filed on February 20, 2026.

***McLeod Gardens Utilities, LLC***

McLeod Gardens Utilities, LLC (McLeod) is a Class C utility serving approximately 101 residential water customers in Polk County. McLeod is an affiliate-company Lake Yale discussed above. On November 27, 2001, the Commission approved the Utility's application for an Original Certificate to provide water service under the name McLeod Gardens Water Company.<sup>12</sup> The Utility was transferred to the present operator in 2017.<sup>13</sup> McLeod's rates and charges were approved in its last staff-assisted rate case (SARC) in 2021.<sup>14</sup> By Order No. PSC-2023-0192-PAA-WS, issued June 30, 2023, McLeod was granted a 15% rate increase in a LARI.

The following table reflects the possible overearnings since 2024.

Line No.	Description	Issued Date	Water NOI/(NOL)	Water Rate Base	Water Achieved ORR	ORR Using Max ROE	Water Possible OE	OE % of Revenues
1	<a href="#">WU979-25-AR</a>	3/27/2026	\$8,113	\$22,324	36.34%	8.10%	(\$6,304)	8.45%
2	<a href="#">WU979-24-AR</a>	3/26/2025	\$7,116	\$21,586	32.97%	8.07%	(\$5,373)	7.14%

The following table reflects the grant price index and pass-through revenue increases for McLeod which totals a collective revenue increase of \$5,058 for two price indices since 2023. Further, McLeod had one FYR effective April 18, 2025, which equaled a water revenue decrease of (\$347).

<sup>12</sup> Order No. PSC-2001-2317-PAA-WU, issued November 27, 2001, in Docket No. 20001381-WU, *In re: Application for certificate to operate water utility in Polk County by Tevalo, Inc. d/b/a McLeod Gardens Water Company.*

<sup>13</sup> Order No. PSC-2017-0367-PAA-WU, issued September 29, 2017, in Docket No. 20160193-WU, *In re: Application for approval of transfer of certain water facilities and Certificate No. 619-W from McLeod Gardens Water Company to McLeod Gardens Utilities, LLC, in Polk County.*

<sup>14</sup> Order No. PSC-2021-0107-PAA-WU, issued March 19, 2021, in Docket No. 20200168-WU, *In re: Application for staff-assisted rate case in Polk County, and request for interim rate increase, by McLeod Gardens Utilities, LLC.*

Line No.	WS No. or Docket No.	Type	Amount Granted	Effective Date
1	WS-2023-0083	INDEX	\$3,415	10/1/2023
2	WS-2024-0024	INDEX	\$1,643	6/1/2024
3	20200168-WU	FYR	(\$347)	4/18/2005

Based on the reported overearnings on the 2024 Annual Report filed March 26, 2025, the Commission Staff did not request an attachment of revenues letter from McLeod. The OPC requests the Commission Staff forward all information requested of and received from McLeod and any Staff informal earnings analysis workpapers performed associated with the 2024 Annual Report.

Based on the reported overearnings on the 2025 Annual Report filed March 27, 2026, the Commission Staff should not entertain a 2026 Price Index Application for McLeod. Therefore, the OPC recommends that the Commission Staff should request an attachment of revenues letter from McLeod while they investigate the possible overearnings. OPC also respectfully requests Commission Staff to keep the OPC in the loop by forwarding all information requested of and received from McLeod and any Staff informal earnings analysis workpapers prepared and/or to be prepared.

***West Lakeland Wastewater, LLC***

West Lakeland Wastewater, LLC (West Lakeland) is a Class C utility providing wastewater service to approximately 316 residential customers and one general service customer in Polk County. Water service is provided by the City of Lakeland Utilities. West Lakeland is an affiliate-company of Lake Yale and McLeod discussed above. In June 2023, the Utility, along with several other sister utilities, was approved for a LARI.<sup>15</sup> By Order No. PSC-2023-0192-

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<sup>15</sup> Order No. PSC-2023-0192-PAA-WS, issued June 30, 2023, in Docket No. 20220185-WS, *In re: Application for limited alternative rate increase in Hardee, Manatee, Marion, Polk, and Pasco Counties, by Charlie Creek Utilities, LLC, Crestridge Utilities, LLC, East Marion Utilities, LLC, Heather Hills Utilities, LCC, Holiday Gardens Utilities, LLC, Lake Yale Utilities, LLC, McLeod Garden Utilities, LLC, Orange Land Utilities, LLC, Sunny Shores Utilities, LLC, Sunrise Water, LLC and West Lakeland Wastewater, LLC.*

PAA-WS, issued June 30, 2023, West Lakeland was granted a 20% rate increase in a LARI. West Lakeland’s last SARC was in 2024.<sup>16</sup> Since the 2022 rate case, West Lakeland has not requested any price index or pass-through revenue increases.

The following table reflects the possible overearnings in 2025.

Description	Issued Date	Wasteater NOI/(NOL)	Wasteater Rate Base	Wastewater Achieved ORR	ORR Using Operating Margin	Wastewater Possible OE	OE % of Revenues
<a href="#">SU967-25-AR</a>	3/30/2026	\$20,284	\$45,041	45.03%	12.00%	(\$14,879)	17.54%

Based on the reported overearnings on the 2025 Annual Report filed March 30, 2026, the Commission Staff should not entertain a 2026 Price Index Application for West Lakeland. Therefore, the OPC recommends that the Commission Staff should request an attachment of revenues from West Lakeland while the Commission Staff investigates the possible overearnings. OPC also respectfully requests Commission Staff to keep the OPC in the loop by forwarding all information requested of and received from West Lakeland and any Staff informal earnings analysis workpapers prepared and/or to be prepared.

**Provision 13.02 of the Commission’s Administrative Procedure Manual (APM)**

Subsection A. of Provision 13.02 of the Commission’s APM states, in pertinent part, the following:

If an overearnings situation is identified and the utility does not agree to initiate rate reduction proceedings, there are two methods, each having different limitations, by which the Commission may redress excessive utility earnings. As described in this procedure, the first method is to set interim revenues subject to refund, followed by an investigation, a possible rate reduction and/or a refund. A second method is appropriate if the utility may have overearned and has recently implemented a rate increase pursuant to an index or pass-through.

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<sup>16</sup> Order No. PSC-2025-0284-PAA-SU, issued July 22, 2025, in Docket No. 20240105-SU, *In re: Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC.*

Subsection C. of Provision 13.02 of the Commission's APM states, in pertinent part, the following:

## C. MONITORING THE EARNINGS OF PUBLIC UTILITIES

### 1. Conduct a Review of the Utilities Annual Report

Surveillance monitoring of earnings is accomplished primarily through review of annual reports which are due on March 31 of each year. If additional financial data is needed, a utility may be required to file additional data pursuant to §367.121(1)(c), F.S. and Rule 25-30.110, F.A.C.

### 2. Detecting Potential Overearnings

A potential for overearnings exists when the reported return on equity exceeds the last authorized range for the return on equity. Secondly, in cases involving rate adjustments, potential overearnings occur when the last authorized range for the overall return is exceeded. If potential overearnings are occurring, the following steps should be taken:

- a. Determine if the financial information filed is complete. For example, if smaller utilities fail to include a provision for management salaries or office rent, staff should adjust the reported rate of return accordingly before testing for overearnings.
- b. Test for errors in the calculation of reported income. Frequently, utilities will fail to recognize amortization of CIAC when calculating depreciation expense or will calculate income taxes incorrectly. Also, be wary of failure to disclose significant amounts of nonused and useful plant.
- c. Determine if a rate adjustment was implemented in the annual report year or in the preceding year.
- d. Notify your supervisor of the overearnings situation once the report has been reviewed and the rate adjustment history of the utility is known. The supervisor will be responsible for assigning further work on the overearnings case.

### 3. Reporting the Results of the Annual Report Review

a. By July of each year following the review of the annual reports, the Division of Accounting and Finance will prepare a "possible overearnings" report which is sent to the Executive Director listing:

- (1) All utilities which have not filed an annual report;
- (2) All undocketed overearnings cases and a comment describing the progress of each case.

b. Monthly updates will be provided to the EXE and DET until all cases are docketed or resolved. The EXE and DET will forward the water and wastewater "possible overearnings" report to the Commissioners.

### 4. Initiating a Financial Audit

Whenever a utility's annual report indicates excessive earnings, the Division of Accounting and Finance must decide whether the case should be handled as an overearnings investigative docket, an overearnings due to indexing or both.

a. If the case involves overearnings caused by a rate adjustment (pass through or index) implemented in the annual report year or previous year, a Commission finding must be made within 15 months from the filing date of the annual report to order refunds and rate reductions in accordance with §367.081(4)(d), Florida Statutes. Any division plan for rate adjustment refunds must address this deadline.

b. Where excess earnings are expected to continue into the future, a formal proceeding is initiated as described by this procedure.

c. When the Division of Accounting and Finance initiates an overearnings case, an audit of the utility will be conducted, whenever practicable, and accompanying legal, engineering and rate support will be planned to argue the investigation.

### **Conclusion**

Based on a search of Docket No. 20260000-OT and a docket search for each of these nine utilities, the OPC did not find where the Commission Staff requested and/or received any attachment of revenues for possible 2025 overearnings. Based on the above, the OPC respectfully requests that Commission Staff indicate whether it has informally secured any

Adam Teitzman  
April 24, 2026  
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attachment of revenues from these utilities. The OPC further requests the status of any disposition of any informal and/or undocketed earnings review of possible overearnings for these utilities including, but not limited to, the monthly updates corresponding to the directive that “EXE and DET” and the “EXE and DET will forward the water and wastewater ‘possible overearnings’ report to the Commissioners,” pursuant to all applicable sections in provision 13.02 of the Commission’s APM. OPC commends this letter to Staff’s inspection and requests that it takes any further appropriate actions that are supported by this information.

Respectfully submitted,

/s/ *Bart Fletcher*

Bart Fletcher  
Legislative Analyst

Attachment

Cc: Braulio L. Baez  
Mark Futrell  
Adria E. Harper  
Mark Cicchetti  
Amber Norris  
Matthew Vogel  
Cassie Gatlin



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## ATTACHMENT A

**SENT VIA ELECTRONIC MAIL**

March 26,

Mark Cicchetti, Director  
Division of Accounting & Finance  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**RE: Extension for Annual Report for the Year Ended December 31, 2025**

Director Cicchetti ,

Pursuant to Rule 25-30.110(3) Florida Administrative Code, KW Resort Utilities hereby request an extension to April 30, 2026 to file the 2025 Annual Report.

Your consideration in granting this extension would be greatly appreciated.

Respectfully Submitted,

Christopher A. Johnson  
President