

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for an acquisition adjustment  
for a non-viable utility, by CSWR-Florida  
Utility Operating Company, LLC.

DOCKET NO.: 20250130-WS

FILED: April 30, 2026

**MOTION TO DISMISS CSWR-NEIGHBORHOOD’S PETITION  
FOR AN ACQUISITION ADJUSTMENT**

The Citizens of the State of Florida, by and through the Office of Public Counsel (“Citizens” or “OPC”), pursuant to Rule 28-106.204, Florida Administrative Code (“F.A.C.”) and Section 120.57(1)(h), Florida Statutes (“F.S.”), hereby file this Motion to Dismiss to Central States Water Resource’s (“CSWR”) Petition for an acquisition adjustment from the Transfer of Facilities of Neighborhood Utilities, Inc., Water Certificate No. 430-W (“Petition”) on the grounds that the acquisition adjustment issue to be decided above-styled docket is barred under the doctrine of Administrative Finality.<sup>1</sup> In support of this motion, the Citizens state as follows:

**BACKGROUND**

1. On October 24, 2025, under the modified Rule 25-30.0371, F.A.C., CSWR filed a Petition for approval of its acquisition adjustment resulting from its transfer of Neighborhood Utilities, Inc. which was purchased by CSWR in 2022.
2. Previously, on January 14, 2022, CSWR had filed an application for transfer of Certificate No. 430-W from Neighborhood to CSWR and approval of its positive acquisition adjustment of \$399,937 under Rule 25-30.0371(2), F.A.C.

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<sup>1</sup> Due to the application of administrative finality, there is an incurable error in the petition. Accordingly, OPC is not constrained by the 20-day requirement to file a motion to dismiss in accordance with Rule 28-106.204(2) F.A.C.

3. The version of Rule 25-30.0371, F.A.C., in effect at the time of transfer from Neighborhood to CSWR required the showing of extraordinary circumstances for approval of a positive acquisition adjustment.
4. In Order No. PSC-2022-0364-PAA-WU (“Order”), issued October 25, 2022, the Commission found under Rule 25-30.0371, F.A.C., the buyer (CSWR) “failed to provide proof of extraordinary circumstances” as required by the rule and denied the positive acquisition adjustment. Order at p. 8, 12.
5. CSWR requested a deferral of the Commission’s final decision regarding the requested positive acquisition adjustment. The Commission cited its long-standing Commission practice to address the disposition of any positive or negative acquisition adjustment at the time of transfer. Order at pp. 7-8. In the Order, the Commission also noted that pursuant to Section 120.68 (7)(e)3., Florida Statutes, that when an agency deviates from established policies, practices, and procedures, it must give explanation for such deviation. The Commission found that a deferral of the acquisition adjustment decisions was an unnecessary deviation from Commission practice and declined CSWR’s request to defer the decision on the positive acquisition adjustment. Order at p. 8.
6. The Order, on page 14, provided proper notice that if CSWR was adversely affected by the final action of the Commission, they may request: (1) a petition for a formal proceeding by November 15, 2022; (2) file for reconsideration of the Order within 15 days of issuance of the order; (3) or seek appropriate appellate review within 30 days. CSWR failed to exercise their properly noticed procedural due process rights after PSC-2002-0364-PAA-WU was issued by the deadline on or before November 16, 2022.

7. The Commission then subsequently issued Consummating Order No. PSC-2022-0398-CO-WU, issued November 16, 2026, with *yet another* properly provided notice of CSWR's procedural due process rights, which CSWR did not exercise. This inaction made the Proposed Agency Action final and dispositive.<sup>2</sup>
8. On November 28, 2022, CSWR provided the Commission notice that it had closed on the purchase November 17, 2022. This occurred despite the fact that there was a purchase agreement provision that CSWR could back out of the deal if the acquisition adjustment was not approved set forth in the Agreement for Purchase and Sale of Utility System, Paragraph 8, Conditions Precedent for Buyer to Close, Subparagraph A, Regulatory Approval.<sup>3</sup>
9. Almost three years after the Consummating Order finalized the denial of the positive acquisition adjustment and after it closed on the acquisition, CSWR filed another Petition under the modified version of Rule 25-30.0371, F.A.C., for approval of the same positive acquisition adjustment involving the same party, which had already been disposed of by the Commission.

### **ARGUMENT**

10. In Reedy Creek Utils. Co. v. Fla. Pub. Serv. Com., 418 So. 2d 249, 253 (Fla. 1982), the Florida Supreme Court found that while the power of the Commission to modify its orders is inherent by reason of the nature of the agency and the functions it is empowered to perform, “[t]his inherent authority to modify is not without limitation.” The Reedy Creek

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<sup>2</sup> 120.52(7) F.S.

<sup>3</sup> See, CSWR's Application for Transfer of Facilities and Certificate from a Regulated Utility to Another Regulated Utility, attached Exhibit B, Page 4, Paragraph 8, Section A. in Docket No. 20220019-WU, In re: Application for Transfer of Water Facilities of Neighborhood Utilities, Inc. to CSWR-Florida Utility Operating Company, LLC, in Duval County.

case involved the Commission correcting a **miscalculation** a mere two and half months after the orders were issued. Id.

11. The Reedy Creek Court explained that the Commission is charged with the statutory duty of regulating and supervising public utilities with respect to their rates. They stated that “[w]hen the Commission determined that it had erred to the detriment of the using public, it had the inherent power and the statutory duty to *amend its order to protect the customer.*” (Emphasis added) Id.

In Reedy Creek, the Court cited to its prior decisions, Peoples Gas Sys., Inc. v. Mason, 187 So. 2d 335 (Fla. 1966), and Austin Tupler Trucking v. Hawkins, 377 So. 2d 679 (Fla. 1979). These cases “dealt with orders amended four years and two years respectively after their inception and ‘administrative finality’ had attached.” Reedy Creek at 253. The Court added that the underlying purpose of the doctrine of finality is to protect those who rely on a judgement or ruling. Id. at 254.

12. The doctrine of administrative finality provides that there must be “a terminal point in every proceeding, at which the parties and the public may rely on a decision of such an agency as being final and dispositive of the rights and issues involved therein.”<sup>4</sup> There is a point in time in which orders must pass out of the Commission’s control, become final, and no longer subject to change or modification.<sup>5</sup>
13. The Commission, in 2022, denied CSWR’s request for a positive acquisition adjustment for the acquired system of Neighborhood, Certificate No. 430-W. This denial came after the Commission listened to the parties at agenda, issued a PAA Order that was not

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<sup>4</sup> Reedy Creek Utils. Co. v. Fla. Pub. Serv. Com., 418 So. 2d 249, 253 (Fla. 1982) (quoting Peoples Gas System v. Mason, 187 So.2d 335 (Fla. 1966)).

<sup>5</sup> Id.

protested, and was then finalized with a Consummating Order.<sup>6</sup> CSWR did not appeal the Order. The Consummating Order was the terminal point in which the parties, utility, and customers relied on as the final and dispositive decision of all material issues of law and fact. Further, CSWR had ample opportunity to protest the denial of the acquisition adjustment, as stated above in Paragraphs 6 and 7. CSWR, in fact, consummated the purchase of the utility in full reliance on the finality of the Order and with no change in the governing law or Commission rules.

14. Exceptions to administrative finality exist but do not exist in this instance.<sup>7</sup> As the Reedy Creek Court (citing the Peoples Gas case) noted that regulatory agencies exercise continuing jurisdiction over the persons and activities regulated and are usually concerned with deciding issues according to public interest that often changes with shifting circumstances and passage of time. Id. at 253.
15. The only change in circumstance from CSWR's previous petition is the 2024 modification of Acquisition Adjustment Rule 25-30.0371 F.A.C. This change in law came after the consummation of the purchase and it cannot be reasonably claimed the consummation of the purchase was made in reliance on this future change in law. In Florida, administrative rules generally only have prospective application.<sup>8</sup> Similarly, federal courts also apply the principle of prospective application to new rules or modification of rules.<sup>9</sup> Neither the modified Acquisition Adjustment Rule, nor the statute, authorizes retroactive application.<sup>10</sup>

Clearly a rule passed well after the acquisition and finalization of the order approving it

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<sup>7</sup> See Fla. Power & Light Corp. v. Beard, 626 So. 2d 660 (Fla. 1993).

<sup>8</sup> Envil. Tr. v. Dep't of Envil. Prot., 714 So. 2d 493, 499 (Fla. Dist. Ct. App. 1998).

<sup>9</sup> See Bowen v. Georgetown Univ. Hosp., 488 U.S. 204, 208-209, 109 S. Ct. 468, 102 L. Ed. 2d 493 (1988) (a federal rule or regulation is retroactive only if the enabling legislation contains a valid grant of authority specifically allowing the agency to apply the rule retroactively).

<sup>10</sup> See generally, Fla. Stats. 367.071(5), 367.081(2)(a), 367.121(1)(a), (b); 25-30.0371 F.A.C.

and establishing rate base cannot have provided an incentive to make the acquisition. CSWR had the right in this contract<sup>11</sup> to back out of the acquisition upon denial of the positive acquisition adjustments and did not invoke that right. Instead, it closed on the transaction.

16. The modified Acquisition Adjustment Rule does not contain retroactive language upon which the Commission may rely to grant renewed consideration of the historically denied positive acquisition adjustment. Without express language, the Commission lacks authority under statute, rule, and case precedent to retroactively apply the modified rule. The company cannot merely request to resurrect this past defeated filing due to disappointment with the prior outcomes or because it is economically advantageous to do so. To fail to apply the doctrine of administrative finality would create perpetual request for defeated adjustments that would continually plague the Commission.
17. CSWR's request for the Commission to reconsider its prior decision regarding the denial of the positive acquisition adjustment is most closely analogous to an untimely motion for reconsideration. As the Commission stated in the recent TECO rate case, the "attempt to reframe its argument for another bite at the apple is not an appropriate basis for a motion for reconsideration."<sup>12</sup> CSWR should not be permitted to merely reargue its case.

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<sup>11</sup> See, Order PSC-2022-0120-PAA-WU, issued March 18, 2022, Consummating Order PSC-2022-0136-CO-WU, issued April 11, 2022, in Docket No. 20210095-WU, wherein CSWR was denied the positive acquisition and subsequently closed on the Sunshine transaction May 24, 2022. Order PSC-2022-0116-PAA-SU, issued March 17, 2022, Consummating Order PSC-2022-0137-CO-SU, issued April 11, 2022, in Docket No. 20210133-SU, wherein CSWR was denied the positive acquisition and subsequently closed on the North Peninsula transaction May 26, 2022. Order PSC-2022-0115-PAA-WS, issued March 15, 2022, Consummating Order PSC-2022-0133-CO-WS, issued April 08, 2022, in Docket No. 20210093-WU, wherein CSWR was denied the positive acquisition and subsequently closed on the Aquarina transaction May 16, 2022.

<sup>12</sup> Order No. PSC-2025-0203-FOF-EI, in Docket Nos. 20240026-EI, 20230139-EI, 20230090-EI, issued June 11, 2025, In re: Petition for rate increase by Tampa Electric Company, In re: Petition for approval of 2023 depreciation and dismantlement study, by Tampa Electric Company, In re: Petition to implement 2024 generation base rate adjustment provisions in paragraph 4 of the 2021 stipulation and settlement agreement, by Tampa Electric Company, at 10.

18. There is no significant change in circumstances or demonstrated public interest that would compel an overturning of the Commission's previous final Order denying CSWR's acquisition adjustment, upon which it acted in closing the acquisition transaction. Moreover, CSWR has not identified any facts or circumstances, almost three years after the initial decision and its closing of the transaction, that the Commission had not already considered in the 2022 decision. The Commission stated when this utility was transferred that "[w]e believe the cases noted above demonstrate that a buyer that has undertaken the appropriate level of due diligence has the ability and responsibility to provide estimated net cost savings to customers at the time of transfer." Order No PSC-2022-0364-PAA-WU at p. 7. At the time, the Commission found that "[w]e do not find that the Buyer's anticipated improvements in quality of service and compliance with regulatory mandates illustrate extraordinary circumstances, and instead demonstrate CSWR-Neighborhood's intentions to responsibly provide utility service." Id. at p. 10.

No exceptional circumstances exist to warrant disturbing the final decisions of the Commission as they pertain to the acquisition adjustment addressed above. The decision was made following a full and fair process, and no legal grounds exist to reconsider the matter. CSWR acted with full knowledge and in full reliance on the Order to consummate without recourse the purchase of Neighborhood Utilities, Inc.

19. Thus, CSWR failed to provide compelling facts or circumstances to disturb the earlier decision, and indeed, the public interest requires that the Commission discourage any continuation of business practices where excessive positive acquisition adjustments are paid to acquire what the Company claims is non-viable utilities. This practice is facially imprudent. CSWR's lack of prudence in these procurements is magnified, rather than

excused, since it is in the business of purchasing water and wastewater systems. CSWR alone is responsible for this failed business model and the burden should not be placed on the captive customer base.

20. Therefore, the Commission should grant OPC's Motion to Dismiss based on application of the doctrine of administrative finality in the above-styled docket.

### **CONCLUSION**

21. OPC has contacted Counsel for CSWR, and the PSC for their positions regarding the Motion for Summary Final Order and Motion for Abeyance. CSWR objects to the motion.

Wherefore, Citizens ask this Commission to grant this Motion to Dismiss.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**  
**DOCKET NO. 20250130-WS**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished  
by electronic mail on this 30<sup>th</sup> day of April, 2026, to the following:

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