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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Brevard, Citrus, Duval, Highlands, Marion, and Volusia Counties by CSWR-Florida Utility Operating Company.	DOCKET NO. 20250052-WS FILED: JULY 10, 2026

POST-HEARING BRIEF OF CSWR-FLORIDA UTILITY OPERATING COMPANY

Filed: July 10, 2026

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I. INTRODUCTION

As Mr. Cox indicates, across this country, there is a pervasive problem with failing small water and wastewater systems. Florida is not immune to this problem.[1] As he describes:

> Decades ago, developers built many of these systems to serve new communities, and this has resulted in a highly fragmented water and wastewater industry in Florida, with small systems that are run by entities that lack the technical, managerial and financial ability to run a real utility. When development projects were completed, responsibility was often left with developers or handed off to homeowners' associations, entities that lack that technical, managerial and financial ability to sustain critical infrastructure. Over time, the outcome became inevitable. Assets deteriorated, maintenance was deferred, and over time, systems that were once functional could no longer meet modern environmental and health standards. Regulators identified testing noncompliance, but the owners simply did not have the resources to fix the problems. What began as a gradual decline became systematic failure.[2]

The problem goes deeper. "These systems are simply too small to be viable. They lack economies of scale. Costs for maintenance and upgrades are spread over too few customers, making sustainability impossible. . . The result is deteriorated infrastructure and chronic compliance issues."[3]

A solution is not only feasible; it has been proven to work in several other states. As Mr. Cox describes, based upon his decades of experience and acquisition of over 1,000 distressed systems,[4] the solution is analogous to a three-legged stool dependent upon: (1) utility expertise, (2) rate consolidation, and (3) the recovery of acquisition adjustments. But much as a three-legged stool cannot stand with a missing leg, this solution is equally dependent upon the presence of all three legs. Furthermore, recognizing that two of the legs (consolidation and acquisition adjustments) require Commission action, the solution is inherently reliant on a public / private partnership.

Expertise: The first leg of the stool involves the existence of private entities that possess the technical, operational, and managerial expertise to acquire, rehabilitate, and operate these small distressed systems.

> These systems need technical, operational and managerial expertise, and CSWR is providing that expertise to these systems by leveraging economies of scale inherent through its affiliation with CSWR systems. You cannot rehabilitate infrastructure without engineering capability. You cannot maintain compliance

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[1] See, Tr. 95-287 (Freeman Direct). See also, Tr. 311 ("Florida problems were indicative of a water and wastewater infrastructure epidemic that is the result of years of underinvestment.")
[2] Tr. 58-59.
[3] Tr. 59-60.
[4] Tr. 70.

without trained operat[ors]. And you can't deliver reliable service without effective management.[5]

Relevant to this proceeding, CSWR-Florida possesses this expertise. As Mr. Thomas illustrates, the Company's operational expertise is dependent upon "disciplined operational oversight," "key performance metrics," "technology," and a "strong focus on regulatory compliance."[6] Mr. Freeman then points out that CSWR's technical expertise is focused upon a "systematic, engineering-driven evaluation of every system, looking at structural integrity, treatment performance, compliance and long-term viability."[7] Next, Mr. Silas describes CSWR's managerial expertise as premised on centralized functions that provide "consistency across all systems," "efficiency through scale," and "speed of deployment."[8] Finally, Mr. Thies explains that the Company's financial expertise is reflected not only in the utilization of "sound accounting principles and transparent methodologies," but also the "ability to timely access capital."[9]

Consolidation: While private entities can supply the necessary expertise to solve the problem with distressed water systems, they are dependent on regulators to provide the second and third legs of the stool. Since "expertise without scale" will lead to failed economics,[10] any solution is dependent on the Commission authorizing the rate consolidation of the Company's systems. "Consolidation of these small systems and the resultant economies of scale is what makes sustainability possible. On a stand-alone basis, small systems simply do not work economically. When costs are borne by a small number of customers, rates can become unaffordable."[11]

The affordability benefit of consolidation is prominently displayed in this case. As Mr. Duncan relates, "the Aquarina stand-alone water rate average bill would be $99.73 a month. By spreading costs across the statewide number of customers, Aquarina's rate and average bill is moved to a consolidated rate of $44.91."[12] As described in Issue 40, consolidation also provides benefits beyond affordability including efficiencies and cost savings.[13]

Acquisition Adjustments: While expertise and consolidation are necessary to ensure affordable, properly functioning water systems; without the recovery of acquisition adjustments "the capital never arrives."[14] Recognizing that most owners, because of their salaries, or expectations of system growth, will not sell for net-book value, acquisitions typically cannot occur without an acquisition adjustment. "If companies are required to pay those costs but cannot recover them, the incentive to acquire and fix these systems disappears. And without

[5] Tr. 60.
[6] Tr. 379-380.
[7] Tr. 311.
[8] Tr. 524-525.
[9] Tr. 459 and 461.
[10] Tr. 63.
[11] Tr. 61.
[12] Tr. 417.
[13] Tr. 417-418; Tr. 408.
[14] Tr. 63.

acquisition, these systems remain in decline."[15] As further described in Issue 17, it is the recovery of acquisition adjustments that "allows capital to flow into distressed systems."[16]

Ultimately, this case is pivotal. The Commission has previously signaled its desire to address distressed water systems through its promulgation of two rules.[17] Desire turns to resolve, however, when the Commission allows recovery of acquisition adjustments and increases rates. Recognizing that CSWR is the only entity acquiring and rehabilitating Florida distressed systems,[18] and since this is the Company's first rate case, this represents the Commission's first real opportunity to demonstrate its resolve.

The Commission's actions will not be without opposition. Given its punitive ratemaking positions in this case, OPC clearly doubts that the Commission has the resolve to address distressed systems and increase rates. Instead, OPC asks that the Commission to punish CSWR for daring to execute such a strategy. Effectively, OPC asks that the Commission ignore that portion of its mission statement which focuses on "the efficient provision of safe and reliable utility services,"[19] and focus solely on the establishment of lowest rates possible. For instance, OPC takes the following positions:

1) While the Company, in a short time, has returned 15 water / wastewater treatment systems back to environmental compliance, OPC nonetheless suggests that "the quality of service of CSWR's systems is deficient" and that "the Commission should reduce the leverage graph-determined return on equity for the Utility by 25 basis points."[20] (See Issue 2).

2) While the Company did not construct these distressed systems, nor has it had an opportunity to address water leaks to limit excessive unaccounted for water, OPC nevertheless suggests that the Commission make disallowances to power and chemical expense, as well as rate base, depreciation, and property taxes. (See Issue 7).

3) Regardless of whether a premium was necessary to remove problematic owners, OPC recommends denial of acquisition adjustments. (See Issue 17).

4) Ignoring the traditional ratemaking methodology for calculating income taxes, and even though customers have already enjoyed improved utility service at depressed, non-compensatory rates, OPC proposes that ratepayers be allowed to appropriate the shareholders past net operating losses to reduce income taxes and revenue requirement. (See Issue 37).

5) Despite the multitude of benefits associated with the Company's membership in AWWA / NAWC, OPC proposes to eliminate a portion of these dues as lobbying expense. (See Issue 32A).

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[15] Tr. 62.
[16] *Id.*
[17] See, 25-30.0371 Florida Administrative Code regarding the recovery of acquisition adjustments and 25-30.0372 Florida Administrative Code regarding the utilization of appraisals to establish rate base value of acquired water and wastewater systems.
[18] Tr. 328.
[19] https://www.floridapsc/about
[20] Prehearing Statement of the Office of Public Counsel, page 6 (issue 1).

6) Lacking understanding of the instructions underlying Accounts 303 and 353, OPC proposes to eliminate approximately 92.8% of the Company's booked Land and Land Rights. (See Issue 3).

Each of OPC's proposals, if adopted by the Commission, sends a clear signal to potential purchasers of distressed systems that, while they can acquire distressed systems, they should then expect: (1) to not recover the cost of the acquisition; (2) to suffer from a reduced return on equity until all systems have been returned to compliance; (3) to have rate base, depreciation, property taxes, chemicals, and power costs disallowed due to excessive unaccounted for water caused by previous owners; (4) to lose the tax benefit of net operating losses; (5) to absorb the necessary costs of lands, easements, appraisals, and land rights; and (6) to forego recovery of membership dues.

Given its positions, it is apparent that OPC is satisfied with the status quo – a status quo that guarantees that thousands of Floridians will continue to receive non-compliant water / wastewater service and inferior utility service. After all, in OPC's eyes, such inferior utility services are acceptable. . . so long as it is accompanied by low rates.

II. PROCEDURAL POSTURE

This case has been marked by constantly changing Staff positions that make an understanding of positions difficult. Obviously, any determination of the issues in this case must first involve an understanding of the evolution of Staff's positions and its final recommendations. For this reason, the Company includes this section detailing the changes in Staff's positions. The Company mentions the repeated changes to Staff's audit positions not to criticize, but as context for this section of the brief. In this section, the Company discusses the status of each of Staff's eleven audit findings as well as the Company's position on each Audit Finding.

Audit Finding #1 (Plant Additions): Original position (March 27, 2026) increased Company's plant additions by $4,794. Errata #2 (May 13, 2026) modified to Staff's position to an increase of $4,725. Company agrees with Staff amended Audit Finding #1.

Audit Finding #2 (Retirement and Net Salvage): Original position (March 27, 2026) decreased Company's retirements and net salvage by $65,857. Errata #3 (May 28, 2026) withdrew Staff's Audit Finding #2. Company agrees with Staff's withdrawal of Audit Finding #2.

Audit Finding #3 (Land and Land Rights): Original position (March 27, 2026) recommended an overall increase to Land and Land Rights of $904. Errata #3 (May 28, 2026) revised from Staff's position from an increase to a decrease of the Company's Land and Land Rights value of $2,976,066. Company disagrees with Staff amended Audit Finding #3. See Issue 3.

Audit Finding #4 (Contributions in Aid of Construction): Original position (March 27, 2026) recommended an increase in CIAC (reduction in rate base) of $3,375,771. Errata #3 (April 24, 2026) revised Staff's position from an increase in CIAC to a decrease of $22,811. Company agrees with Staff's amended Audit Finding #4.

Audit Finding #5 (Depreciation Expense): Original position (March 27, 2026) recommended an increase in depreciation expense of $21,520. Errata #2 (May 13, 2026) reduced Staff's recommended increase to $12,884. Company agrees with Staff amended Audit Finding #5.

Audit Finding #6 (Acquisition Adjustments): Original position (March 27, 2026) recommended exclusion of Acquisition Adjustments included by the Company. No revisions. Company disagrees with Staff's Audit Finding #6. See Issue 17.

Audit Finding #7 (Working Capital): Original position (March 27, 2026) recommended an increase of $42,624 in the amount of working capital included in rate base. No revisions. Company agrees with Staff's Audit Finding #7.

Audit Finding #8 (Capital Structure): Original position (March 27, 2026) recommended a modification in the Company's proposed capital structure as well as a reduction in weighted average cost of capital from utilization of the Commission's current leverage formula. No modification. Company agrees with Staff's Audit Finding #8.

Audit Finding #9 (Operating Revenues): Original position (March 27, 2026) recommended a reduction in operating revenues, therefore an increase in revenue deficiency, of $1,403,815. No modification. Company disagrees with Staff's Audit Finding #9. See Issue 27.

Audit Finding #10 (Operations and Maintenance Expense): Original position (March 27, 2026) recommended an increase in O&M expense of $7,901. No modification. Company agrees with Staff's Audit Finding #10.

Audit Finding #11 (Taxes Other Than Income): Original position (March 27, 2026) recommended a decrease in Taxes Other Than Income expense of $47,392. Errata #2 (May 13, 2026) reduced Staff's adjustment by an additional $3,237. Company agrees with Staff's Audit Finding #11.

While Staff's role in this case has been symbolized by constant changes, OPC's role is notable for its lack of true substance. Consistent with the *Order Establishing Procedure* in this case, OPC filed the Direct Testimony of Ralph Smith. In that testimony, Mr. Smith only raised four issues for the Commission's consideration: (1) Recovery of Acquisition Adjustments (See Issue 17); (2) Reduction of Return on Equity Consistent with the Commission's Most Recent Leverage Graph Order (See Issues 25 and 26); (3) Utilization of Net Operating Loss Carryforwards (See Issue 37); and (4) Recovery of Industry Association Dues (See Issue 32A). As reflected in this Posthearing Brief, CSWR-Florida agrees with OPC's second issue involving Return on Equity. Therefore, only three OPC prefiled issues remain for the Commission's consideration.

Given the issues raised in testimony as well as during the hearing, CSWR-Florida provides substantive argument in this brief for the following eight primary issues: (1) Quality of Service (Issue 1), (2) System Compliance (Issue 2), (3) Land and Land Values (Issue 3), (4) Excessive Unaccounted For Water / Used and Useful / Infiltration and Inflow Adjustments (Issue 7), (5) Acquisition Adjustments (Issue 17), (6) AWWA / NAWC Dues (Issue 32A), (7) Net Operating Losses (Issue 37), and (8) Rate Consolidation (Issue 40).

III. UPDATED POSITIONS ON ISSUES AND ARGUMENT

Quality of Service

Issue 1: Is the overall quality of service provided by the Utility satisfactory, and, if not, what systems have quality of service issues and what action should be taken by the Commission?
Position: *The quality of service is satisfactory for all systems.*

Argument: The Commission evaluates quality of service based on three components: (1) quality of the utility's product, (2) operating conditions, and (3) attempts to address customer satisfaction. Each of these will be addressed in turn.

1. Quality of the Utility's Product

As mentioned, the Company has brought operational, technical, managerial, and financial expertise to each of the distressed systems that it acquired. The best indication of the expertise the Company has provided is the large number of distressed systems the Company has returned many into FDEP compliance. That said, however, the evidence reflects the nature of the expertise that the Company is providing in order to ensure a high quality of utility product.

Operational Expertise

In his testimony, Mr. Thomas discusses the Company's operational expertise. Based upon decades of experience in utility operations and engineering,[21] Mr. Thomas concludes "many prior owners lack the expertise, technology and financial capacity to implement this type of a comprehensive operational model. The result was inconsistent performance, and in many cases, chronic compliance challenges."[22]

In contrast, CSWR's provision of operational expertise is premised on several factors. First, as he describes, the CSWR model relies on operational oversight.

> CSWR maintains a clear chain of accountability, including a dedicated regional manager responsible for day-to-day supervision. And at my level, I conduct regular reviews focused on key performance metrics, emergency response, maintenance completion, compliance and cost control. This structure ensures that issues are identified early and addressed before they affect customers.[23]

Second, operational expertise must include the utilization of technology. "CSWR deploys a comprehensive maintenance management system that tracks assets, schedules preventative maintenance and manages work orders. It is fully integrated with our customer service systems, ensuring coordination between the field and customer interface."[24] "CSWR also utilizes remote monitoring technology that provides real time visibility into system performance.

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[21] Tr. 378.
[22] Tr. 381.
[23] Tr. 379.
[24] Tr. 380.

This allows us to detect and respond to issues often before customers even notice them. These tools give us the visibility and control needed to manage dispersed systems efficiently and reliably."[25]

Third, operational expertise must be focused on regulatory compliance. CSWR deploys its own environmental, health and safety team which ensures adherence to the Safe Drinking Water Act and the Clean Water Act, and other regulatory requirements. This team manages inspections, sampling, reporting and corrective actions. "This function is becoming increasingly important as regulatory compliance grows more complex, including emerging issues such as PFAS and lead service line inventories. Meeting these requirements demands technical expertise, structured processes and sustained attention, capabilities that smaller systems often lack."[26]

The success of CSWR's operational model is reflected in a couple of operational statistics. For instance, despite inevitable problems associated with transitioning operational responsibilities from prior owners,[27] the Company submitted 99.5% of wastewater samples and 98.8% of drinking water samples in a timely fashion.[28] Other operational metrics are equally impressive. For instance, while operating wastewater systems for 7,727 days, the Company has had only one odor complaint.[29]

Moreover, while prior owners failed to comply with regulations regarding boil water notices, the Company has strictly complied with such advisories. As Mr. Thomas explains, boil water notices are precautionary and can be caused by a multitude of problems including "line breaks, power outages and pressure drops – all conditions that can lead to unsafe drinking water."[30] While prior owners frequently ignored these compliance requirements and failed to notify customers of such a pressure drop, the Company has strictly complied with such requirements. That said, while such "notices" were issued, the underlying event never resulted in unsafe drinking water. "[E]very time a BWN [boil water notice] was issued, the Company pulled samples and had the water tested and confirmed safe prior to lifting the notice. Finally, the Company has had no samples fail following a BWN. This indicates that in all the Company's BWNs, water was deemed safe to drink."[31]

Technical Expertise

Across his 192 pages of direct testimony, Mr. Freeman addresses the Company's technical expertise. As he indicates, the technical problems found at these acquired systems "were indicative of a water and wastewater infrastructure epidemic that is the result of years of underinvestment."[32] While the problems at some systems were so severe as to necessitate total plant replacements, the Company's ultimate focus is to "determine what can be salvaged – and

[25] *Id.*
[26] Tr. 380-381.
[27] Tr. 375.
[28] Tr. 376.
[29] Tr. 371.
[30] Tr. 382.
[31] Tr. 370.
[32] Tr. 311.

what can't."[33] As a result, as discussed in the following section, the Company has already returned 15 of 27 systems to compliance and believes that four other systems are imminent.[34] That said, for eight systems, plant assets were so deteriorated that are simply not capable of being salvaged. As explained in response to Issue 2, these systems require a much larger solution. Working closely with DEP, including the utilization of consent orders, the Company have engaged in engineering design, permitting, bidding, and construction of new treatment facilities.[35] Given this coordination with DEP, the Company hopes to achieve compliance for these systems in the future.

Managerial Expertise

In his witness summary, Mr. Silas describes CSWR's deployment of managerial expertise across all core capabilities which relies upon "centralization" of regulatory, customer experience, corporate communications, engineering, accounting, finance, information technology, legal, and human resources functions.[36] Centralization of these necessary functions at the parent company (CSWR) level results in cost savings from economies of scale. "The company has found that efficiencies are delivered and economies of scale realized when these functions are handled at the parent company and not separately by each of the company's 1,000 operating utilities."[37]

The centralization of these core functions at the parent company level also result in two other benefits. First, centralization results in consistency across systems. "By centralizing these functions, the company knows that the customer service, regulatory operations for any particular system will be handled in the same way as it is done for other thousand systems in the CSWR umbrella."[38] Second, centralization of these core capabilities results in a more rapid deployment of system improvements. "By centralizing this responsibility, the improvements were immediately deployed at each system rather than attempting to deploy the improvements separately at each remote system."[39]

As Mr. Silas points out, the centralization of such roles works. For instance, as it applies to customer experience, centralization results in satisfied customers.

> The results speak to the effectiveness of that model. The customer experience department handled nearly 45,000 Florida calls in the test year. Of those 45,000 calls, we maintained a 0.47 percent abandonment rate versus a seven-percent industry benchmark. We also achieved a 15-second average speed of answer and delivered an 89.81 percent service level for timely response. This is very intentional. We measure everything, benchmark against the industry and drive

[33] *Id.*
[34] Exhibit 167.
[35] Tr. 315. See also, Tr. 373 (A Consent Order (Consent Agreement) reflects the "long-term nature of these capital investment solutions" and "provides the time necessary to implement these long-term solutions.") and Tr. 399-400.
[36] Tr. 524.
[37] *Id.*
[38] *Id.*
[39] Tr. 525.

continuous functional improvement from the centralized department to each operating utility.[40]

Financial Expertise

Financial expertise encompasses several different considerations including financial controls and reporting, cost of service ratemaking calculations, and the ability to timely access capital.[41] The Company's ability to deploy such financial expertise stands in stark contrast to that of previous owners.[42]

First, as it relates to financial controls and reports, Mr. Thies explains, his role "is not simply to report numbers. It's to ensure that every financial conclusion is anchored in sound accounting principles and transparent methodologies with clear attention to cost of service ratemaking. The basis for achieving such goals is necessarily premised accounting controls and budget procedures."[43] With this in mind, Mr. Thies explains that the Company's financial records are maintained in accordance with Generally Accepted Accounting Principles and utilize the account structure and instructions set forth in the Uniform System of Accounts.[44] Beyond this, financial controls extend to "annual operating budgets, the utilization of a rigid capitalization policy, and the application of a consistent Cost Allocation Manual."[45] As a result of this strict adherence to these financial guidelines, the Company "has obtained unqualified audit opinions. . . annually since 2015."[46]

Second, the Company has also demonstrated its ability to calculate and report cost of service calculations.

> The company's financial books form the basis of the qualification of revenue requirement -- of the revenue requirements. I approach this calculation by applying the cost of service formula. My financial analysis necessarily starts with review of rate base and the capital investment and evaluation. I construct rate base from utility plant cost, accumulated depreciation and further plant investments.
>
> Turning to the revenues and expense portion of the ratemaking equation, I utilized the per books value for each component. That said, because utilities are dynamic, acquiring systems, investing in infrastructure and evolving operations, I make targeted adjustments in normalizations to reflect ongoing conditions.[47]

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[40] Tr. 526.
[41] Tr. 458-461.
[42] Tr. 459-461 ("Problems with the integrity of prior financial records extends to all aspects of the balance sheet. Given this and recognizing that CSWR has engaged in hundreds of distressed system acquisitions, I have no problems concluding that most of the prior owners lacked financial expertise.")
[43] Tr. 458-459.
[44] Tr. 428, 447, and 459.
[45] Tr. 459.
[46] Tr. 428.
[47] Tr. 460-461.

Finally, the Company's financial expertise is demonstrated in its timely access to capital. Throughout this case, it was noticed that, upon acquisition, the Company adopts the current rates of the prior owners. In most instances, and given the dated nature of the rates, those rates "were not fully compensatory".[48] As a result, the Company immediately began incurring losses when it acquired these distressed systems. Those losses were exacerbated as a result of the capital investments made by CSWR-Florida as well as the increased necessary to "operate them in a manner that ensures customers receive safe and reliable service."[49] Ultimately, as a result of its ability to access capital, the Company was able to incur over $5 million of operating losses prior to filing this rate case.[50]

Beyond the ability to sustain such operating losses, the Company has also demonstrated its financial expertise through its plans to access commercial debt once rates from this case create adequate cash flow to service such debt.

> Commercial banks and lenders generally require that a company's operations generate sufficient cash flows to service debt. This means that enough cash must be available for interest and principal payments after all daily operations have been funded. Given that CSWR-Florida has already incurred millions of dollars in operating losses and will continue its loss position until sufficient rates can be charged, it is not possible for the Company to obtain commercial debt. CSWR Florida hopes to be able to source commercial debt once rates from this case are put into effect.[51]

Recognizing its demonstrated ability to deploy operational, technical, managerial, and financial expertise, as well as its ability to return non-compliant systems to a state of compliance with FDEP regulations, the Company asserts that it is delivering a high quality of utility service to its customers.

2. Operating Conditions

While operating conditions are addressed in greater detail in Issue 2, a summary is provided here. Specifically, of the 38 systems acquired by the Company, only 8 systems were in compliance with Florida Department of Environmental Protection ("FDEP") regulations at the time of acquisition. Recognizing that 3 systems relied upon purchased treatment,[52] 27 systems were out of compliance at the time that they were acquired by the Company. Since acquisition, the Company has brought 15 systems back into compliance with the Company expecting imminent compliance for an additional four systems. Meanwhile, the Company has initiated long-term renovation solutions, involving design, permitting, bidding, and construction activities, for the other eight systems. Importantly, by any assessment, the Company has made significant strides in returning non-compliant systems back into compliance with FDEP regulations.

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[48] Tr. 38.
[49] *Id.*
[50] Tr. 33, 39
[51] Tr. 433.
[52] While CSWR-Florida retains some compliance responsibilities at purchased treatment systems, primary responsibility for purchased water / wastewater treatment compliance remains with the treatment provider.

3. Attempts to Address Customer Satisfaction

In its rebuttal testimony, the Company addresses, in response to both Staff's customer complaint log as well as the customer complaints submitted in this docket,[53] its efforts to address customer satisfaction.[54] As an initial matter, as pertains to customer service hearings during rate cases, the Company "always sends senior executives to participate in these hearings" as they provide the best opportunity "to understand what improvements can be made by the Company."[55] Moreover, as Mr. Cox indicates, he personally read all the "customer comments filed in this docket."[56]

As an initial matter, Mr. Cox concludes that, given his experience with these types of rate cases in other jurisdictions, many of the customer comments were not unexpected. ***First***, recognizing the distressed nature of the systems acquired by the Company, and the non-responsive nature of prior owners, "customers of these distressed systems have suffered for years, if not decades, from substandard utility service. Therefore, customers are generally less receptive to a rate increase when they have grown accustomed to poor utility and customer service."[57]

Along these lines, the Company noticed that many of the customer complaints related to legacy service issues. Staff, however, failed to distinguish service problems attributable to prior ownership deficiencies and those that may have arisen since CSWR-Florida acquisition.

> A portion of the quality of service complaints reflected in Staff exhibits are attributable to legacy system conditions that CSWR-Florida inherited from prior owners. For example, in Marion County, CSWR-Florida acquired 28 water and wastewater systems through five separate transactions. As set forth in the Direct Testimony of Mr. Freeman, these utility assets were generally in a significant state of disrepair at the time of acquisition. In several instances, those systems had longstanding infrastructure deficiencies and poor operational practices - such as the apparent lack of required boil water advisories - that predated the Company's ownership. As a result, complaints related to outages, water quality, and pressure in that area are more indicative of conditions created under prior ownership through a chronic history of disrepair and poor operational practices, rather than through failures by CSWR-Florida after assuming operational responsibility. Staff's exhibits list such complaints by system but do not attempt to distinguish between legacy issues and conditions arising after CSWR-Florida began operating and investing in those systems.[58]

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[53] Tr. 621-626 and Exhibits 127-129.
[54] "While CSWR-Florida has approximately 13,700 customers, the Commission has received fewer than 50 discrete customer comments." Tr. 631.
[55] Tr. 630.
[56] Tr. 631.
[57] Tr. 632-633.
[58] Tr. 517.

Second, many of the comments in this docket complained "about the percentage increase requested by the Company."[59] Recognizing that "the failure to seek rate increases is symptomatic of small, distressed water and wastewater systems," 31 of the 38 systems acquired by CSWR-Florida have gone "more than 14 years without a rate case."[60] In fact, the Sebring Ridge system has not had a rate increase since 1996.[61]

The failure to seek timely rate increases generally leads to three irrefutable conclusions. First, the utility management is failing to invest in the system. Therefore, most of the plant assets have likely reached the end of their useful lives. Second, adopted rates were no longer compensatory and the eventual rate increase will be more significant than if the utility had sought regular increases. Third, customers have become accustomed to a deflated utility rate and when a rate increase is eventually sought customers will be more outspoken.[62]

While many of the customer complaints were to be expected given the distressed nature of the systems and the extended time since the last rate increase, the Company has taken actions to better ensure that customer issues are addressed in a timely fashion.

> CSWR-Florida implemented corrective action by hiring a dedicated escalation specialist on March 4, 2024. This position was created specifically to monitor, track, and escalate Commission inquiries and consumer complaints to ensure that responses are timely, complete, and properly documented in accordance with Commission rules.
>
> Following the creation of the escalation specialist role, CSWR-Florida strengthened also its oversight of Commission-referred complaints, including centralized monitoring of response deadlines and enhanced coordination between customer service and regulatory staff. These changes are designed to prevent delays and improve compliance with Commission response requirements.[63]

Moreover, as Mr. Silas relates, following the service hearings, CSWR-Florida proactively reached out to multiple customers who raised concerns related to service quality, billing issues, or operational matters to ensure that questions were answered and issues were addressed. Post-hearing outreach focused on concerns involving service quality, water or wastewater system operations, billing questions related to usage or leaks, boil water advisories, and other operational topics where additional clarification or follow-up could assist the customer or resolve outstanding issues.[64] "CSWR-Florida's post-hearing outreach demonstrates the Company's commitment to engaging with customers, addressing service-related concerns and providing transparency and follow-up after customers avail themselves of the Commission's hearing process."[65]

[59] Tr. 633.
[60] Tr. 633-634.
[61] Tr. 634.
[62] Tr. 634-635.
[63] Tr. 518.
[64] Tr. 521.
[65] Tr. 522.

Ultimately, the best measure of the Company's ability to address "customer satisfaction" is the surveys that are taken at the end of all agent calls.

> This survey measures key aspects of a customer's experience, specifically satisfaction with the interaction, the adequacy of help received, and the agent's knowledge. Specifically, customers are asked if they were satisfied with their interaction, if they got the help they needed, and if the agent was knowledgeable. Throughout the test year, CSWR-Florida collected responses from 2,844 individual customers and was able to achieve a "perfect survey rate" from 88.78% of all responders which means that customers answered "yes" to all of the aforementioned prompts. ***On average, CSWR-Florida has been able to achieve survey scores on all three of these questions that ranged from 94.41% to 95.27% indicating a very favorable reception from customers***.[66]

Issue 2: Are the infrastructure and operating conditions of the Utility's water and wastewater systems in compliance with Florida Department of Environmental Protection regulations?

Position: *Yes, in part. 30 of 38 systems were not compliant with FDEP regulations upon acquisition. Three rely on purchased treatment. Of the 27 remaining, 15 have been brought into compliance. Four systems environmental compliance is imminent. Thus, eight systems remain out of compliance but have long-term renovation solutions.*

Argument: The systems the Company has acquired, since its inception in 2022, several significantly deteriorated water and wastewater systems with long histories of failing to comply with FDEP regulations. The Company has, through extensive replacements, repairs and upgrades to facilities, as well as improved system operations and maintenance, made significant improvements in these distressed systems. The Company is committed to making additional capital improvements until all systems fully comply with FDEP regulations.

As generally set forth in Mr. Cox's testimony, the systems acquired by the Company have exhibited "deteriorated" plant facilities and a "poor" history of compliance with applicable health, safe, and environmental regulations.[67] As a result, at the time that they were acquired, most of the systems were out of compliance with Florida Department of Environmental Protection regulations ("FDEP").[68] Specifically, of the 38 systems acquired by the Company

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[66] Tr. 505-506 (emphasis added).

[67] Tr. 33.

[68] *See*, Tr. 102 ("North Peninsula wastewater treatment system had a history of noncompliance and enforcement actions from FDEP. In the five years leading up to acquisition by CSWR Florida this included repeated enforcement actions concerning issues with the facility that the previous owners failed to address to the satisfaction of FDEP."); Tr. 119 ("Sebring Ridge wastewater treatment has a long history of noncompliance with FDEP rules and regulations. A review of compliance documents for the five-year period preceding the system's acquisition by CSWR Florida shows the facility repeatedly received warning letters, inspection reports noted noncompliance that must be addressed and calls for corrective action that included compliance schedules."); Tr. 143 ("During the five years immediately prior to their acquisition by CSWR Florida the twenty-three Sunshine water systems experienced a variety of compliance issues. Many of these issues were recurring and were experienced across multiple facilities, often multiple times, which indicates systemic issues with operations and reporting practices."); Tr. 161 ("The [CFAT Landfair] facility has a long history of noncompliance and failure to comply with permitted limits as well as failure to adequately plan for and complete upgrades to the facility to meet the total nitrogen limit compliance

(through 11 separate acquisitions), only eight systems were in compliance with FDEP regulations at the time of the acquisition.[69] Recognizing that three systems were either purchased water, or wastewater purchased treatment,[70] 27 treatment systems were out of compliance with water or wastewater environmental regulations at the time of acquisition.

As a result of the professional operations dedicated by the Company to these systems, and the extensive capital improvements made at these systems, CSWR-Florida has returned numerous systems to a state of FDEP compliance. Specifically, the customers of 15 systems, that had suffered from years / decades of inferior utility service, are now receiving environmentally compliant water / wastewater services.[71]

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schedule."); Tr. 172 ("A review of the compliance history of the [CFAT] Landfair drinking water system in the five years immediately preceding its acquisition by CSWR Florida shows regular instances of noncompliance related to monitoring and reporting requirements."); Tr. 183 ("The Beverly Hills / Rolling Oaks Wastewater facility had some history of noncompliance under previous ownership."); Tr. 201 ("A review of the compliance history of the Rolling Oaks drinking water system in the five years immediately preceding its acquisition by CSWR Florida shows some instances of noncompliance related to monitoring and reporting requirements."); Tr. 210 ("A review of the compliance history of the Neighborhood Utilities drinking water system during the five years immediately preceding its acquisition by CSWR Florida shows regular instances of noncompliance related to monitoring and reporting requirements as well as noncompliance related to monitoring and reporting requirements as well as noncompliance related to the condition of utility assets); Tr. 221 ("The Tymber Creek wastewater facility has a long history of noncompliance prior to its acquisition by CSWR Florida."); Tr. 233 ("The inspection report [for Aquarina wastewater treatment] notes a consistent history of effluent exceedances" including "total suspended solids exceedances and nitrate limit exceedances."); Tr. 245 ("A review of the federal Safe Drinking Water Information System ("SDWIS") database shows eight monitoring and reporting violations [for Aquarina Water System] in the five years immediately preceding the system's acquisition by CSWR Florida. . . related to the Environmental Protection Agency's Lead and Copper Rule, the Revised Total Coliform Rule, and Groundwater Rule for E. coli sampling."); Tr. 257 ("A review of the compliance history of the Tradewinds drinking water system for the five years immediately preceding its acquisition by CSWR Florida shows instances of noncompliance related to monitoring and reporting requirements."); Tr. 264 ("The Tradewinds wastewater treatment plant had a long history of noncompliance prior to the connection to the Marion County Utilities wastewater system and the decommissioning of the wastewater treatment facility.").

[69] Tr. 324. (Sunshine – Hilltop at Lake Weir, Sunshine – Little Lake Weir, Sunshine – Oakhurst, Sunshine – Ocala Gardens, Sunshine – Sandy Acres, CFAT Water, TKCB, and Tradewinds Water).

[70] BFF – Sandlin Woods and Tradewinds wastewater systems interconnect with publicly-owned wastewater systems and are provided purchased treatment (see, Tr. 261 and 280). Tymber Creek has purchased water (Tr. 227).

[71] Exhibit 167: *Aquarina Drinking Water* ("Based on the information provided in your response, the facility was determined to have resolved the identified issues and has returned to compliance."); *Aquarina Wastewater* ("[a]ll provisions of the Consent Order executed on June 13, 2025 have been satisfactorily fulfilled. . . The Department appreciates your efforts and cooperation in bringing this facility into compliance with state and federal rules."); *Sunshine – Ashley Heights* ("Based on the information provided during and following the inspection, the facility was determined to be in compliance with the Department's rules and regulations."); *Sunshine – Belleview Oaks* ("the Florida Department of Environmental Protection has determined that all provisions of the Consent Order executed on November 12, 2025 have been satisfactorily fulfilled. . . The Department appreciates your efforts and cooperation in bringing this facility into compliance with state and federal rules."); *Sunshine – Country Walk* ("the Florida Department of Environmental Protection has determined that all provisions of the Consent Order executed on November 12, 2025 have been satisfactorily fulfilled. . . The Department appreciates your efforts and cooperation in bringing this facility into compliance with state and federal rules.") ("Based on the information provided during and following the inspection, the facility was determined to be in compliance with the Department's rules and regulations."); *Sunshine – Emil Mar* ("the Florida Department of Environmental Protection has determined that all provisions of the Consent Order executed on February 5, 2025 have been satisfactorily fulfilled. . . The Department appreciates your efforts and cooperation in bringing this facility into compliance with state and federal rules."); *Sunshine - Florida Heights* ("the Florida Department of Environmental Protection has determined that all provisions of the Consent Order executed on February 5, 2025 have been satisfactorily fulfilled. . . The Department appreciates

Of the twelve systems that remain out of compliance, the Company believes that it has completed the necessary steps for 4 systems to return to compliance but are simply awaiting the final FDEP acknowledgement.[72] Thus, the Company asserts that there are 8 non-compliant systems that require a more extensive capital plan.[73] For instance:

The existing *Rolling Oaks – Beverly Hills* wastewater system is incapable of handling current treatment flows or existing total nitrogen effluent limits.[74] In addition, given the poor condition and limited remaining useful life of the facility tanks, it was determined that a new plant was needed to meet the flow and effluent requirements.[75] In an effort to minimize rate impacts, the Company contacted neighboring, publicly owned, treatment works to determine whether, if an interconnection was installed, purchased treatment could be obtained. Given the minimal capacity available at these systems, however, it was determined that a new Rolling Oaks facility was necessary.[76] Obviously, given the design, permitting, bidding, and construction work involved with such a project, full environmental compliance is a long-term project.[77]

The current *CFAT – Landfair* wastewater system "has a long history of noncompliance and failure to comply with permitted limits as well as failure to adequately plan for and complete upgrades to the facility to meet the total nitrogen limit compliance schedule."[78] Ultimately, the Company determined "that the tanks could not be cost-effectively repaired or refurbished and

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your efforts and cooperation in bringing this facility into compliance with state and federal rules."); *Sunshine – Floyd Clark* ("the Florida Department of Environmental Protection has determined that all provisions of the Consent Order executed on February 5, 2025 have been satisfactorily fulfilled. . . The Department appreciates your efforts and cooperation in bringing this facility into compliance with state and federal rules."); *Sunshine – Fore Oaks* ("the facility was determined to have resolved the identified issues and has returned to compliance with Department's rules and regulations."); *Sunshine – Quail Run* ("the facility was determined to have resolved the identified issues and has returned to compliance with Department's rules and regulations."); *Rolling Oaks Water* ("Based on the information provided during and following the inspection, the facility was determined to be in compliance."); *Sunshine – Sun Ray Estates* ("the Florida Department of Environmental Protection has determined that all provisions of the Consent Order executed on February 5, 2025 have been satisfactorily fulfilled. . . The Department appreciates your efforts and cooperation in bringing this facility into compliance with state and federal rules."); *Sunshine – Sunlight Acres* ("Based on the information provided during and following the inspection, the facility was determined to be in compliance with the Department's rules and regulations."); *Sunshine – Winding Waters* ("the Florida Department of Environmental Protection has determined that all provisions of the Consent Order executed on November 12, 2025 have been satisfactorily fulfilled. . . The Department appreciates your efforts and cooperation in bringing this facility into compliance with state and federal rules."); *Neighborhood Water* ("Please send any necessary photos / documentation when the work is completed on the hydro tank, and there should be no further issues with returning the system to compliance.")

[72] Tr. 395 ("If you – in those agreements, there is a list of multiple items. Many of them could already be done and you are waiting for the determination on one final component of that agreement on consent.") The Company believes that all compliance work has been completed and necessary documentation submitted for the Sunshine – Eleven Oaks, Sunshine – Oak Crest Villas, Sunshine – Ocala Heights, and Sunshine – Ponderosa Pines systems and that compliance will be established upon FDEP recognition.

[73] Sunshine – Oak Haven, Sunshine – Ocklawaha, Sunshine – Whispering Sands, Rolling Oaks – Beverly Hills Wastewater, CFAT – Landfair Wastewater, North Peninsula Wastewater, Sebring Ridge Wastewater, and Tymber Creek Wastewater,

[74] Tr. 193.

[75] *Id.*

[76] *Id.*

[77] *Id.*

[78] Tr. 161.

had reached the end of their useful lives."[79] Given the extensive nature of the system failures, the Company's third-party engineering partners recommended a "total plant replacement" to ensure system compliance and a full useful life.[80] Much as with Rolling Oaks, *supra*, given the design, permitting, bidding, and construction work involved with such a project, full environmental compliance is a long-term project.

Similarly, the current *North Peninsula* wastewater system was in extremely poor condition with all three package plants leaking and risking "catastrophic failure."[81] While the Company initially planned to interconnect to the neighboring City of Ormond Beach wastewater facilities,[82] the rate impacts associated with expanding capacity at the Ormond Beach facility necessitated the complete replacement of the North Peninsula facility.

As with the preceding wastewater facilities, the *Sebring Ridge* wastewater facility was also in "poor condition" with most assets having either reached the end of their useful lives or incapable of meeting current environmental regulatory standards.[83] While the system will not need to be completely replaced as with the Rolling Oaks, CFAT, and North Peninsula wastewater facilities, the replacements will be extensive including: a comprehensive overhaul of the aeration system, improvements to the clarified equipment, the addition of a decanter, the addition of a fine screening system to eliminate nuisance solids, electrical upgrades, and lift station improvements.[84]

As with the other referenced wastewater systems, the *Tymber Creek* system had many assets that were in "poor condition" including blowers for the aeration and digester systems, sand filters with impacted sludge, and lift stations with a chronic history of sanitary sewage overflows due to placement below the flood plain. Again, given the extensive nature of the problems, the repairs and renovations will necessarily take more time.

As mentioned in the Introduction, it is inequitable to saddle CSWR-Florida with punitive financial adjustments due to the failures of prior owners. While the Company was able to restore compliance at 15 of the 27 non-compliant treatment systems using more short-term measures, some systems were known to require a more long-term solution. The Company is working diligently with FDEP to design, permit, bid, and construct the renovations required at these systems.

Rate Base

Issue 3: What adjustments, if any, should be made to account for the audit adjustments related to rate base?

Position: *The Company agrees to Staff Audit Finding 1 (Plant Additions); 4 (CIAC); and 7 (Working Capital). Staff withdrew Audit Finding 2 (Plant Retirements). CSWR-Florida

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[79] Tr. 169.
[80] Tr. 170.
[81] Tr. 106.
[82] Tr. 110.
[83] Tr. 116-117.
[84] Tr. 130-131.

disagrees with Staff Audit Findings 3 (Land and Land Values) and 6 (Acquisition Adjustments; see also Issue 17).*

Argument: In its direct testimony, Staff originally recommended that Land and Land Rights balances for Tymber Creek, Rolling Oaks, and Sebring Ridge be increased by $33,672 and that the Land and Land Rights balances for Ponderosa Pines and Quail Run systems of Sunshine Utilities be decreased by $32,768.[85] Suddenly, six business days prior to the hearing, Staff issued an errata[86] which, instead of recommending an overall increase in Land and Land Values, recommended a 92.8% reduction in the Accounts 303 and 353 balances.[87] Specifically, Staff's "errata" reduced Account 303 for water systems by 92.3% from $3,188,983 to $244,416 and Account 353 for wastewater systems by 93.2% from $3,193,429 to $217,363.[88]

Staff developed its simplistic errata position by comparing the current Land and Land Rights balance to that ordered by the Commission in the associated acquisition docket.[89] Thus, with regards to North Peninsula, the Commission acquisition decision of March 17, 2022, states:

> The Utility's general ledger reflected a land balance of $46,800 as of July 31, 2021. There have been no additions to land since May 30, 2018. Therefore, there will be no adjustments to the Utility's land balance.[90]

Given this, Staff used simple subtraction to disallow all subsequent costs booked to these accounts as follows:

> Audit staff verified the Land balance of the North Peninsula Wastewater system in the amount of $46,800, but the Utility reflected a Land balance in the amount of $93,203 in its MFRs. Based on the Commission Order No. PSC-2022-0116-PAA-SU, and the supporting documentation, the Land balance of the North Peninsula Wastewater system should be decreased by $46,403.[91]

Ultimately, there are <u>four</u> fundamental problems with Staff's errata recommendation to eliminate almost 93% of the Company's Land and Land Rights balances. First, Staff fails to recognize that Land and Land Rights balances are not static but will inevitably grow as additional costs are booked to the account. Second, Staff did not review the prudence and reasonableness of incremental costs booked to these Accounts to determine if they were needed for utility service. Third, Staff improperly assumes that the utilization of "original cost" is sacrosanct in Florida ratemaking. Fourth, through its adjustment, Staff needlessly inflates the amount of any requested acquisition adjustments associated with these accounts.

First, as Mr. Thies points out in his supplemental rebuttal testimony, the amounts booked to Accounts 303 and 353 are not static but are subject to change as additional assets are acquired.

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85 Exhibit 126, page 14 of 91.
86 Exhibit 126, errata 3 (filed May 28, 2026).
87 Account 303 is the Land and Land Rights account for water and Account 353 is the analog for wastewater. Tr. 676
88 Tr. 673.
89 Exhibit 126, errata 3 (filed May 28, 2026).
90 Tr. 675 (citing to Order No. PSC-2022-0116-PAA-SU, issued March 17, 2022, at page 6).
91 *Id.*

> Staff's revised audit finding seems to be based upon the incorrect premise that the balance in the land and land rights account should be a static figure. It appears Staff believes that the land and land rights balance should be the same in this rate case as it was on the seller's books at the time of the original acquisition docket for that system. ***The Uniform System of Accounts, however, does not limit the account solely to the initial value of the land, nor does it preclude the booking of additional costs after a certain date. Rather, Account 303 provides for the continued recording of costs related to surveys, closing costs, title costs, easements, and other land rights***.
>
> The Uniform System of Accounts, however, does not limit the account solely to the initial value of the land, nor does it preclude the booking of additional costs after a certain date. Rather, Account 303 provides for the continued recording of costs related to surveys, closing costs, title costs, easements, and other land rights.[92]

In most cases, the incremental costs booked to Accounts 303 and 353 since the issuance of the Commission's acquisition order consisted of "easements, land rights, surveys, appraisals, and closing costs," – all clearly costs necessary for the provision of utility service.[93]

Second, epitomizing the notion of "using a cleaver instead of a scalpel," Staff blindly disallowed all incremental costs booked to Accounts 303 and 353 without any consideration of the prudence or reasonableness of the costs. In most cases, the additional land rights acquired and reflected in these accounts were necessary to the Company's provision of utility service. As Mr. Thies illustrates:

> A prime example of the need to incur costs that are subsequently booked to Account 353 occurred at Tymber Creek. There, after the closing of the acquisition, and given the uncertainty of the seller's asset records, CSWR Florida incurred costs related to a survey. As a result of that survey, the Company was able to identify a lift station that, while tied the Tymber Creek wastewater system, was not owned by the utility. Instead, the lift station, connected to a swimming pool and other community assets, was owned by the Homeowners' Association. Given the condition of the lift station, the Homeowners' Association insisted that it was owned by the utility. As a result of the survey, however, CSWR-Florida was able to determine that the lift station was not an acquired asset. Given this, the Company was able to avoid the capital and operating costs associated with this third-party lift station. Clearly then, as a result of this post-acquisition cost, that was recorded in Account 303, the Company was able to minimize costs to all Florida ratepayers.[94]

[92] Tr. 675-676 (emphasis added).
[93] Tr. 676.
[94] Tr. 679.

Given its heavy-handed approach to disallow all incremental costs booked to these Accounts, Staff failed to take any time to consider the prudence or the reasonableness of the costs associated with the Tymber Creek survey, or the benefit derived by ratepayers resulting from these costs. Instead, Staff simply disallowed all incremental costs booked to these accounts since the acquisition decision.

Interestingly, in response to questioning from Commissioner Ortega, even OPC witness Smith acknowledges that Staff went too far in its disallowance as there are costs associated with "easements and other land rights" that fit within this NARUC account:

Q. Can you help me understand your understanding of that rule, does that contradict the NARUC account?

A. Not in my opinion, because, again, you know, original costs, there is a dollar value paid for the fee simple interest in land, and then there are associated costs with that, right. So, you know, it's similar to -- and, you know, again, I am not an engineer either, but, you know, if you go buy a blower system at a wastewater plant, there are costs to ship it, there are costs to place it, to construct it, to bolt it to the ground, whatever you got to do, and ***I think the easements and the other land rights are similar. There are costs you have to incur to use that land for its intended purpose, which in this case is utility service***.[95]

In his rebuttal testimony, Mr. Thies points out that the Tennessee customer advocate advanced a similar position. Much like Staff here, the Consumer Advocate, without attempting to understand the nature of the increase in Accounts 303 and 353, recommended a disallowance of the increased amount. There, contrary to the approach taken by Staff in this case, the Tennessee Commission "reviewed" the increased costs in these Accounts and found that they included "expenses for closing, titling, property appraisals, engineering surveys, mapping / drafting reports, and easements."[96] Finding that such costs "will result in substantial benefits to customers,"[97] the Commission allowed recovery of such costs.[98]

Third, based upon reading the Commission's depreciation rule in a vacuum, the Staff asserts that the Commission must use "original cost" and, thus, should eliminate the costs booked to the Rolling Oaks Land and Land Rights accounts resulting from an appraisal. Specifically, 25-30.140 F.A.C. sets forth the Commission rules for Depreciation. Subsection (1)(r) defines "Original Cost" as "the cost of acquiring an asset and placing it into service for first utility use."

Importantly, however, and contrary to Staff's adjustment in this case, nothing in that rule supports Staff's assumption that the amount booked in the Land and Land Values account is static. Thus, at the least, there is no basis for the Staff's wholesale disallowance of all costs incurred and booked to these accounts since the time that the Commission issued its acquisition

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[95] Tr. 702 (emphasis added).
[96] *Order Setting Utility Rates*, Docket No. 24-00044, issued July 10, 2025, at page 45.
[97] *Id.*
[98] *Id.* at pages 45-46 and 50.

decisions.[99] Thus, instead of taking the "cleaver" approach of disallowing all incremental costs in these accounts, Staff should have utilized a "scalpel" to determine if the incremental costs were recorded at original costs. At least as it applies to the non-Rolling Oaks accounts, all such costs were recorded at original cost and should not have been disallowed by Staff. Frankly, Staff went way too far!

As it pertains to Rolling Oaks, Staff apparently objects to the Company's utilization of an appraisal to determine the appropriate value of Land and Land Rights to book to Accounts 303 and 353. As the Company points out, since Rolling Oaks was not previously regulated by the Commission,[100] there are no reliable documents by which to determine the value of Land and Land Rights.

As Mr. Thies relates, it was apparent that the amount booked by Rolling Oaks to this account was wildly inaccurate.

> [T]he Rolling Oaks system is a very large system. It has something like near 30 acres of fee simple land and 80 acres under easement, and the books and records showed 18 to $19,000 of land value between water and sewer. And so it seemed clear that what was on the books was not full, sufficient complete which, you know, from our experience and our perspective, is actually common among the type of systems that we buy, where the books and records don't actually reflect what has been placed into service, or owned, or donated, or whatever, to the utility.[101]

Recognizing that this equates to a land value of $164-$172 / acre, it was apparent that the amount recorded to the Rolling Oaks Accounts 303 and 353 were wildly inaccurate. In fact, this assessment was shared by an independent third-party tasked with assessing the original cost of land. Given the lack of any reliable data for Land and Land Rights for the Rolling Oaks system, the Company conducted an appraisal.[102]

While Staff's recommendation doesn't specifically reference the utilization of the Rolling Oaks appraisal, given its continued reference to the referenced Depreciation rule, it is apparent that Staff objects to the use of the appraisal as a surrogate for the original cost of the Rolling Oaks systems.

Staff's continued reliance on "original cost" as contained in the Depreciation rule is interesting and outdated. No longer is Florida strictly an "original cost" jurisdiction. No longer is the notion of "original cost" sacrosanct as Staff now asserts. Specifically, in June 2024, the Commission promulgated 25-30.0371 F.A.C. related to the recovery of acquisition adjustments.

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[99] Tr. 705-706 ("Q: And in this case, can you tell, did Staff make a similar determination or did Staff make a wholesale disallowance of all those costs? A: Staff disallowed – Staff's disallowance includes everything that was post the acquisition case orders. So from that perspective, anything that got into those accounts after the date of acquisition has now been removed under their [Staff's] recommendation.")
[100] Tr. 707.
[101] Tr. 706-707.
[102] Tr. 695. ("The appraisal was used because there was doubt about the original – or about the costs that we knew at the time.")

Under such a rule, the Commission may authorize a utility to include in rate base, an amount above the net book value of acquired utility system assets. Similarly, in April 2024, the Commission promulgated 25-30.0372 F.A.C. which provides for the use of "licensed appraisers" to determine the rate base value of an acquired utility system. Recognizing that neither rule depends on original cost to set the rate base of an acquired system, it is apparent that original cost is no longer gospel as Staff now portrays.

In fact, while Staff clings to the concept of original cost, the notion has been outdated for at least 125 years. Specifically, in 1898, the United States Supreme Court considered the rates of a railroad utility. In Smyth v. Ames, the Court held that "the basis of all calculations as to the reasonableness of rates to be charged by a corporation maintaining a highway under legislative sanction must be the fair value of the property being used by it for the convenience of the public."[103] While many factors could be considered, the Court concluded that one such factor is the "present as compared with the original cost of construction."[104] Thus, original cost has never been gospel as it applies to utility ratemaking.

Fourth, it is important to recognize the practical effect of Staff's adjustment to disallow all incremental costs recorded to Accounts 303 and 353 since the Commission's acquisition decisions. Specifically, if successful, Staff's adjustment here needlessly inflates the quantification of the acquisition adjustments that the Company seeks to recover. As defined at 25-30.0371(c), a positive acquisition adjustment "means the purchase price is greater than the net book value." Therefore, through its wholesale disallowance of all incremental costs booked to Land and Land Values, the Staff deflates the net book value of the acquired assets and, as a result, inflates the acquisition adjustment. Recognizing that the Company has five acquisition adjustment petitions pending,[105] the Staff's disallowance of costs here simply inflates the acquisition adjustment pending in those other dockets.

Ultimately, Mr. Thies concludes that there are policy ramifications implicated by Staff's wholesale disallowance of the costs booked to Accounts 303 and 353.

> [T]he systems acquired by CSWR-Florida were all in various states of disrepair and most displayed a chronic history of non-compliance with environmental regulations. Many states are issuing policy statements designed to encourage the acquisition of these distressed systems by well-capitalized private entities that can devote technical, financial, and managerial expertise and resources to these distressed systems. In fact, in recent years, the Florida Commission has issued rules providing for: (1) the recovering of acquisition adjustments associated with the acquisition of non-viable utilities (25-30.0371 F.A.C. – effective June 17, 2024) and (2) the establishment of rate base value utilizing appraisal valuations (25-30.0372 F.A.C. – effective May 15, 2024).[106]

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[103] Smyth v. Ames, 169 U.S. 466, 546 (1898).
[104] *Id.* at 547.
[105] Aquarina: Case No. 2025-0043, Neighborhood: Case No. 2025-0130, North Peninsula: 2025-0038, Rolling Oaks: 2025-0136, and Sunshine: 2025-0047.
[106] Tr. 680-681.

While the Commission is taking steps designed to incentivize the acquisition of non-viable systems, Staff's position would appear to undermine these policy goals by disallowing the costs necessary to acquire those distressed systems. Therefore, this adjustment would appear to discourage the acquisition of the distressed systems.[107]

Issue 4: Should any adjustments be made to test year plant-in-service balances?
Position: *The Company agrees to Staff's Audit Finding 1: Plant Additions. Staff withdrew Audit Finding 2: Plant Retirements which would have affected plant-in-service balances. CSWR-Florida ***disagrees*** with Staff Revised Audit Finding 3: Land and Land Values. See Issue 3 regarding Land and Land Values.*

Issue 5: Should any adjustments be made to the Utility's pro forma plant additions?
Stipulated Position (Type 1): *No adjustments should be made; the CSWR-Florida has no pro forma plant additions.*

Issue 6: What are the appropriate plant retirements to be made in this docket?
Position: *None. Staff withdrew Audit Finding #2 related to Plant Retirements.*

Issue 7: Do any water systems have excessive unaccounted for water and, if so, what adjustments are necessary, if any?
Position: *No.*

Argument: Commission Rule 25-30.437(1) mandates the completion and provision of Form PSC 1028 for all Class A Water and / or Wastewater Utilities.[108] Among other things, Form PSC 1028 includes several engineering schedules designed to calculate: (1) excessive unaccounted for water (Schedule F-1) and (2) used and useful percentages for water treatment plants (Schedule F-5), wastewater treatment plants (Schedule F-6), and water distribution and wastewater collection systems (Schedule F-7).[109] Based upon these calculations, the Commission ordered, as part of its interim rate calculations, used and useful disallowances to rate base, depreciation expense and property taxes,[110] as well as excessive unaccounted for water disallowances to purchased power and chemical expenses.[111]

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[107] Tr. 681-682.
[108] While most of the CSWR-Florida systems would have been Class C utilities on a standalone basis, the existence of Rolling Oaks with the CSWR-Florida umbrella, and the request to consolidate all systems statewide, the Company utilized the PSC 1028 form for Class A utilities in its rate case application.
[109] The schedules also allow for the calculation of excessive infiltration and inflow ("I&I") for wastewater systems as well. In its Order Granting Interim Rates in Part and Denying Interim Rates in Part, issued September 24, 2025, pages 13-14, the Commission dismissed any I&I disallowance. "We reviewed the utility's interim I&I calculations on a per system basis, our previous decisions, and available usage data contained in CSWR's MFR schedules. Using the methodology approved in prior rate cases and current conditions, we do not find any I&K adjustments for interim purposes." Nevertheless, if an I&I disallowance is proposed in this case, the same policy arguments against excessive unaccounted for water or used and useful disallowances would be equally applicable to an I&I disallowance.
[110] *See*, Order Granting Interim Rates in Part and Denying Interim Rates in Part, issued September 24, 2025, pages 5-7, and Order Granting Interim Rates, issued October 27, 2025, pages 4-5.
[111] *See*, Order Granting Interim Rates in Part and Denying Interim Rates in Part, issued September 24, 2025, page 13, and Order Granting Interim Rates, issued October 27, 2025, page 8.

Consistent with its desire to ensure absolutely the lowest possible rates, even at the cost of perpetuating the multitude of distressed Florida water and wastewater systems, the OPC utilizes these calculations to recommend numerous disallowances. Specifically, OPC recommends excessive unaccounted for water disallowances[112] and used and useful disallowances for numerous systems.[113] While OPC's position and motivation are apparent, this is effectively the Commission's first opportunity to pronounce its policy view on the applicability of such punitive disallowances in the context of an acquisition of a distressed water / wastewater system.

While a used and useful disallowance may be warranted as applied to the initial owner that designed and constructed water treatment plants, storage facilities, distribution pipes, or wastewater collection systems, the imposition of such a disallowance to the purchaser of a distressed system sends a negative message as to the Commission's desire to have such troubled systems acquired and rehabilitated. At the time that it acquires a distress system, the purchaser cannot simply size the acquisition to purchase the amount of treatment, storage or distribution needed by the current customer base. Instead, the acquisition of the troubled system necessarily comes "as is" - in the size it is. Through the used and useful disallowance of rate base, depreciation expense, and property taxes – the Commission announces that any potential acquirer will never recover its reasonable costs of owning and operating this system.

Similarly, excessive unaccounted for water adjustments may be warranted as applied to an owner that has had years of operations to maintain water distribution systems and to prevent water leaks. Such an adjustment, as applied to a purchaser of a distressed water system, however, sends a negative message that without even being provided a reasonable opportunity to address water main leaks, the Commission will preclude the purchaser from recovering its reasonable cost of purchased power and chemical expense.

CSWR-Florida suggests that OPC's recommended excessive unaccounted for water disallowances, as well as its used and useful adjustments, are punitive in the current context. By rejecting OPC's adjustments, the Commission signals a willingness to consider the appropriateness of such disallowances on a case by case basis with a view towards ending a history of chronic distressed Florida water systems.

Issue 8: Do any wastewater systems have excessive infiltration and/or inflow and, if so, what adjustments are necessary, if any?
Position: *No. Due to its acquisition of distressed systems, the Company does experience systems with infiltration and inflow. The Company is working diligently to address this

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[112] *See*, Prehearing Statement of the Office of Public Counsel, filed May 1, 2026, issue 7 ("The following systems have excessive unaccounted for water: Aquarina (29%), C.F.A.T. (16%), Neighborhood (27%), Rolling Oaks (28%), Sunshine Utilities (23%), Tradewinds (78%), and Tymber Creek (24%). Any excessive unaccounted for water for each system determined by the Commission must have applicable corresponding reductions to purchased power, chemicals, and / or purchased water expenses. Appropriate adjustments should be made in issue 32."
[113] *See*, Prehearing Statement of the Office of Public Counsel, filed May 1, 2026, issue 10 ("The following systems have water storage and related facilities less than 100% used and useful: Aquarina (65.8%, C.F.A.T. (38%), and Neighborhood (53%)"; issue 12 ("The following systems have wastewater treatment and related facilities less than 100% used and useful: Aquarina (49.09%, C.F.A.T. (39%), North Peninsula (52%), Rolling Oaks (55%), Sebring (29%), TKCB (45.45%), and Tymber Creek (47.56%)."

situation. Given the distressed nature of the acquired systems, the Company does not believe that the situation warrants an adjustment. See Issue 7.*

<u>Issue 9</u>: What are the appropriate used and useful percentages for the water treatment and related facilities of each water system?
Position: *All water treatment and related facilities are fully used and useful. See Issue 7 regarding the applicability of disallowances associated with Excessive Unaccounted for Water, Used and Useful Percentages, or Infiltration and Inflow Disallowances.*

<u>Issue 10</u>: What are the appropriate used and useful percentages for the water storage and related facilities of each water system?
Position: *All water storage and related facilities are fully used and useful. See Issue 7 regarding the applicability of disallowances associated with Excessive Unaccounted for Water, Used and Useful Percentages, or Infiltration and Inflow Disallowances.*

<u>Issue 11</u>: What are the appropriate used and useful percentages for the water distribution and related facilities of each water system?
Position: *All water distribution and related facilities are fully used and useful. See Issue 7 regarding the applicability of disallowances associated with Excessive Unaccounted for Water, Used and Useful Percentages, or Infiltration and Inflow Disallowances.*

<u>Issue 12</u>: What are the appropriate used and useful percentages for the wastewater treatment and related facilities of each wastewater system?
Position: *All wastewater treatment and related facilities are fully used and useful. See Issue 7 regarding the applicability of disallowances associated with Excessive Unaccounted for Water, Used and Useful Percentages, or Infiltration and Inflow Disallowances.*

<u>Issue 13</u>: What are the appropriate used and useful percentages for the collection lines and related facilities of each wastewater system?
Position: *All wastewater collection lines and related facilities are fully used and useful. See Issue 7 regarding the applicability of disallowances associated with Excessive Unaccounted for Water, Used and Useful Percentages, or Infiltration and Inflow Disallowances.*

<u>Issue 14</u>: Should any adjustments be made to test year accumulated depreciation?
Position: *No.*

<u>Issue 15</u>: Should any adjustments be made to test year CIAC balances?
Stipulated Position (Type 2): *Yes. CSWR-Florida accepts Staff's Audit Finding 4 (Contributions-in-Aid-of-Construction CIAC and CIAC Amortization) related to CIAC balances.*

<u>Issue 16</u>: Should any adjustments be made to test year accumulated amortization of CIAC?
Stipulated Position (Type 2): *While Staff did not recommend any adjustment to amortization of CIAC, a minor adjustment may be warranted because of Staff's Audit Finding 4

(Contributions-in-Aid-of-Construction CIAC and CIAC Amortization) reducing the CIAC balance.*

<u>Issue 17</u>: Should any adjustments be made to the acquisition adjustments included in the test year?
Position: *As of the filing of this Post-hearing Brief, the Commission has not granted the acquisition adjustments reflected in the MFRs. If acquisition adjustments have not been approved in time to incorporate the ratemaking impact of those adjustments, then the consolidated revenue requirement should be reduced by $1,105,780.*

Argument: As mentioned, in June 2024, the Commission promulgated 25-30.0371 F.A.C. related to the recovery of positive acquisition adjustments associated with the purchase of non-viable water and wastewater systems. As Mr. Cox explains, the recovery of acquisition adjustments is the device which "allows capital to flow into distressed systems."[114] Based upon this economic fact and given the existence of the Commission's rule, the Company has filed petitions to recover acquisition adjustments for: (1) Aquarina – Case No. 2025-0043 (March 14, 2025), (2) Neighborhood – Case No. 2025-0130 (October 24, 2025), (3) North Peninsula – Case No. 2025-0038 (March 6, 2025), (4) Rolling Oaks – Case No. 2025-0136 (November 7, 2025), and (5) Sunshine – Case No. 2025-0047 (March 18, 2025). Thus, as of the filing of this brief, those petitions have been pending for as long as 16 months.

Based upon the belief that Staff and OPC could process those petitions in some reasonable period, the Company included those acquisition adjustments in its rate base in this case. Given that, the Company expects a Staff recommendation (July 23, 2026), Commission Agenda Conference (August 4, 2026), and Proposed Agency Action (August 24, 2026) in each of those dockets prior to the issuance of a decision in this matter, the Company continues to include those acquisition adjustments in its revenue requirement.

As Mr. Cox points out, in each of the five acquisition adjustment dockets, the Company has shown that the acquired system was "non-viable" as a result of: (1) its failure to comply with federal, state, or local regulations governing primary or secondary water quality or other health, safety, or environmental standard or had a history of violations of such regulations or standards, and (2) a record of insufficient investment, repair or maintenance of assets or an inability to acquire and maintain adequate managerial, operational, financial, or technical capabilities to ensure safe and reliable service to its customer.[115] In addition, and consistent with the Commission's rule, both North Peninsula and Aquarina were non-viable because each was insolvent.[116] Moreover, each of the systems was acquired through an arm's length transaction in that CSWR-Florida was not affiliated in any manner with the acquired company of its owners. Finally, consistent with the rule, the acquisition of the non-viable company provides tangible benefits to the acquired entity's customers.[117]

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[114] Tr. 62.
[115] Tr. 637.
[116] *Id.*
[117] Tr. 637-638.

Recognizing that customers are already receiving operational, technical, managerial, and financial benefits associated with these transactions, "it would seem inequitable for these benefits to flow through rates in this case but then deny the Company recovery of the very acquisition adjustments that produced these benefits."[118]

Issue 18: What is the appropriate working capital allowance?
Position: *The Company agrees to Staff's Audit Finding 7 related to working capital.*

Issue 19: What are the appropriate rate bases for the January 31, 2025, test year?
Position: *The actual rate base will be dependent on the Commission's decision, whether in this docket or the acquisition adjustments dockets, on pending issues such as Land and Land Values and Acquisition Adjustments.*

Cost of Capital

Issue 20: What amount of accumulated deferred taxes should be approved for inclusion in the capital structure for the test year?
Stipulated Position (Type 1): *None. CSWR-Florida has no accumulated deferred taxes.*

Issue 21: What amount and cost rate for customer deposits should be approved for inclusion in the capital structure for the test year?
Stipulated Position (Type 1): *None. CSWR-Florida has no customer deposits.*

Issue 22: What amount and cost rate for short-term debt should be approved for inclusion in the capital structure for the test year?
Stipulated Position (Type 2): *The Company agrees to Staff's Audit Finding 8 (Capital Structure) which reclassifies a related-party credit balance as short-term debt. The Company also agrees to Staff's attendant short-term debt rate of 8.50% as reflected in Audit Finding 8.*

Issue 23: What amount and cost rate for long-term debt should be approved for inclusion in the capital structure for the test year?
Stipulated Position (Type 1): *None; CSWR-Florida has no long-term debt.*

Issue 24: What equity ratio should be approved for use in the capital structure for ratemaking purposes for the test year?
Stipulated Position (Type 2): *As equity ratio of 98.68 percent on a consolidated basis should be approved for ratemaking purposes for the test year.*

Issue 25: What return on equity (ROE) should be approved for use in establishing the Utility's revenue requirement for the test year?
Position: *The Company agrees to Staff's Audit Finding 8 which utilizes the most recent leverage formula approved by the Commission in Order No. PSC-2025-0213-PAA-WA which provides for a return on equity of 8.52%.*

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[118] Tr. 639.

Issue 26: What capital structure and weighted average cost of capital should be approved for use in establishing the Utility's revenue requirement for the test year?
Position: *The Company agrees to the most recent leverage formula providing for a return on equity of 8.52%. Thus, the capital structure should consist of 98.68% common equity at a cost of 8.52% and 1.32% short-term debt at a cost of 8.50%. This results in an overall weighted average cost of capital of 8.52%.*

Net Operating Income

Issue 27: What are the appropriate test year revenues?
Position: *The Company disagrees with Staff's Audit Finding 9 which reduces revenues by $1,403,815 and would, therefore, increase the revenue requirement by a commensurate amount. Staff failed to provide any workpapers supporting this revenue adjustment. Therefore, the Company continues to support the amount of operating revenues in its general ledger.*

Issue 28: What adjustments, if any, should be made to account for the audit adjustments related to net operating income?
Position: *The Company agrees to Staff Audit Finding 5, which increases depreciation expense by $21,520, Staff Audit Finding 10 which increases operations and maintenance expense by $7,901, and Staff Audit Finding 11 which decreases Regulatory Assessment Fees by $44,231 and Property Taxes by $3,161.*

Issue 29: What is the appropriate amount of rate case expense?
Position: *The Company has incurred $623,485 of rate case expense through March 30, 2026, and proposes to update rate case expense at the time of the hearing.*

Issue 30: Should any adjustment be made to the Utility's proposed pro forma expenses?
Position: *The Company had no pro forma expenses.*

Issue 31: Should any adjustment be made to the Utility's proposed management expenses?
Position: *No.*

Issue 32: Should any further adjustments be made to the Utility's test year O&M expenses?
Position: *The Company agrees to Staff Audit Finding 10, which increases operations and maintenance expenses by $7,901.*

Issue 32A: Should any adjustment be made to industry association dues?
Position: *Company ratepayers receive benefits from the activities, including legislative activities, provided through the Company's membership in the National Association of Water Companies (NAWC) and the American Water Works Association (AWWA).*

Argument: On its website, the American Water Works Association ("AWWA") provides a list of policy statements[119] on issues such as cross connections,[120] drinking water quality,[121] and lead

[119] https://www.awwa.org

service line management.[122] Similarly, the National Association of Water Company ("NAWC") website provides statements on water quality, reliability, infrastructure investment, emergency preparedness, and cybersecurity.[123] Despite the obvious benefits to customers associated with the Company's membership in AWWA and NAWC, OPC proposes to eliminate $5,605 of these membership dues as "lobbying expense."[124] Noticeably, however, OPC never reviewed the nature of the legislative work performed by NAWC and AWWA to determine if customers derive a benefit from these "lobbying expenses."

Clearly, given the breadth of the topics addressed by the NAWC and AWWA, customers benefit from the Company's support for these entities. Even as it applies more specifically to legislative efforts, customers also benefit. As Mr. Thies points out, there are direct benefits to customers associated with these alleged "lobbying expenses." For instance, in conjunction with multiple entities including the National Association of Regulatory Utility Commissions, NAWC and AWWA have supported the permanent funding of the Low-Income Household Water Assistance Program ("LIHWAP"). Specifically, the NAWC website indicates:

> The LIHWAP Establishment Act would provide dedicated support for water, recognizing that access to running water is essential for public health and for citizens to remain in their homes. The bill would deliver funds through states directly to water and wastewater utilities to subsidize bills for households in need. Congress created LIHWAP to assist customers struggling to pay their water bills. As the first federal program to exclusively assist low-income families with their water and wastewater bills, LIHWAP helped more than 1.7 million households across the country maintain or restore water service.[125]

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120 "The American Water Works Association (AWWA) recognizes water utilities have the responsibility to supply potable water that is safe and aesthetically pleasing to their end users regardless of size and complexity of the system. With this responsibility, water utilities or other responsible authorities must implement, administer, and maintain ongoing backflow prevention and cross-connection control programs to prevent backflow; protect public water systems from the actual or potential hazards originating on the premises of end user building owners or end users; and protect public water systems from temporary connections that may impair or alter the water."

121 "The American Water Works Association (AWWA) believes that maintaining safe, aesthetically pleasing, and sustainable drinking water is a matter of paramount importance, and it is committed to protecting public health through delivery of drinking water that meets or surpasses all applicable regulatory standards. This commitment is achieved most effectively and economically by utilizing the best available supplies, applying appropriate treatment, employing recognized standards and engineering best practices, and actively managing water quality from the source to the point of delivery. Accordingly, water utilities should develop and implement operations and management programs that: protect sources; identify and address potential water quality threats; assess and optimize treatment, storage, and distribution facilities; and promote ongoing operator training."

122 "As part of this lead service line management effort, water utilities and stakeholders should work collaboratively to expand outreach to alert property owners and consumers in properties with lead service lines about the risks posed by lead and the appropriate steps to reduce and mitigate those risks. AWWA encourages water providers to maintain optimal corrosion control to minimize the release of lead into water. These measures are critical steps to ensure all people have access to safe and reliable water, recognizing that as long as there is lead in contact with drinking water, some risks remain."

123 https://www.nawc.org

124 Tr. 572.

125 Tr. 664 (citing to https://nawc.org/news/nawc-applauds-bipartisan-introductioni-of-the-lihwap-establishment-act/

Similarly, the AWWA provided its support to the LIHWAP Establishment Act:

> In collaboration with a coalition of leading drinking water and wastewater sector organizations, AWWA has prioritized low-income water assistance for several years, including this year at the Association's annual Fly-In.
>
> Sponsored by U.S. Reps. Eric Sorensen (D-IL), Lori Chavez-DeRemer (R-OR), Kim Schrier (D-Wash.), and Jenniffer Gonzalez-Colon, the *Low-Income Household Water Assistance Program Establishment Act* (H.R. 8032) is a companion bill to Senate legislation introduced by Sen. Alex Padilla (D-CA) earlier this year. Both proposals would permanently authorize the Department of Health and Human Services' Low-Income Household Water Assistance Program (LIHWAP), established by Congress in 2020 to promote public health by easing the burden on families struggling to afford their monthly water bills.[126]

Clearly then, consumers derive benefits from the very legislative efforts now decried by OPC. "[B]oth the NAWC and AWWA have been on the front line in supporting the establishment of permanent LIHWAP funding. Recognizing that this legislation would allow low-income customers to continue to receive water services, ***it is beneficial to customers***. In fact, the best indication of the beneficial nature of such legislation is found in the fact that the National Association of Regulatory Utility Commissioners ("NARUC"), an organization supported by the Florida Commission, supported the same legislation."[127]

Recognizing the nature of NAWC / AWWA legislative efforts, it is illogical for the OPC, the advocate for consumers, to then discourage the efforts designed to benefit its constituents. Given these consumer benefits, the Commission should reject OPC's recommendation.

Issue 33: Should any adjustments be made to test year taxes other than income?
Position: *The Company agrees to Staff Audit Finding 11.*

Issue 34: Should any adjustments be made to test year depreciation expense?
Position: *The Company agrees to Staff Audit Finding 5, which increases depreciation expense by $21,520.*

Issue 35: Should any adjustments be made to test year amortization of CIAC expense?
Stipulated Position (Type 2): *While Staff did not recommend any adjustment to amortization of CIAC expense, some minor adjustment may be warranted because of Staff's Audit Finding 4 (with which CSWR-Florida agrees) reducing the CIAC balance.*

Issue 36: Should any adjustments be made to the acquisition adjustment amortization expense included in the test year?
Position: *CSWR-Florida did not include acquisition adjustment amortization expense in the test year.*

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[126] Tr. 665 (citing to https://www.awwa.org/AWWA-Articles/new-bipartisan-legislation-continues-low-income-household- water-assistance-program) (emphasis added).
[127] Tr. 666 (citing to https://naruc.org and D584F621-90E2-77CA-EF50-E70E3099143A).

<u>Issue 37</u>: Should net operating losses be used to lower income tax expense?
Position: *No. Customers previously benefited from improved utility services at adopted rates that were non-compensatory. Therefore, shareholders incurred the burden of the net operating losses. Company shareholders should not be denied the tax benefits of these net operating losses.*

Argument: Typically, income taxes in a rate case are calculated without regard to the existence of deductions that may cause actual income tax payments to be higher or lower in any particular year. Specifically, income tax for ratemaking purposes is "normalized"[128] and calculated simply by "multiplying rate base by the Company's proposed weighted cost of common equity and then multiplying by the 21% federal corporate tax rate."[129] The fact that this is the typical method for calculating the level of income taxes included in rates is reflected in the Commission's calculation of income taxes in the interim rate decisions.[130]

Despite this well-established approach to calculating income taxes, OPC proposes to forego the normal method of calculating ratemaking income taxes in favor of recognizing expected income taxes going forward. Specifically, OPC asserts that, since the Company has historically had net operating losses caused by its failure to earn a profit since its formation,[131] it will be able to use past net operating losses ("NOLs") as a deduction to offset 80% of taxable income going forward.[132] Therefore, given the existence of NOLs, OPC proposes that 80% of the Company's calculated income taxes be eliminated from the revenue requirement.

As Messrs. Cox and Thies point out, not only does OPC's methodology violate the time-honored ratemaking methodology for calculating income taxes,[133] it also ignores the fact that shareholders were shouldering the burden of net operating losses during a time when ratepayers were benefitting from improved utility services at a deflated rate.

> [T]he systems CSWR Florida acquired were typically poorly managed and the previous owners lacked the technical, managerial, and financial ability to make the necessary capital investments to ensure regulatory compliance and provide safe, efficient, and reliable service to customers. Moreover, most of the previous

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[128] Tr. 708. ("Q: So income taxes is based upon the normalized ratemaking equation regardless of what happened with what you paid in income taxes in past years, is that correct? A: That's correct.")
[129] Tr. 561. See also, Tr. 708.
[130] See, Order Granting Interim Rates in Part and Denying Interim Rates in Part, issued September 24, 2025, at Schedule No. 3-A, page 4 of 64 (BFF Corp - Wastewater), page 11 of 64 (C.F.A.T. H2O - Water), page 12 of 64 (C.F.A.T. H2O - Wastewater), page 19 of 64 (Neighborhood – Water), page 23 of 64 (North Peninsula – Wastewater), page 32 of 64 (Rolling Oaks – Wastewater), page 39 of 64 (Sebring Ridge – Wastewater), page 47 and 49 of 64 (Sunshine – Water), page 55 of 64 (TKCB – Wastewater), page 62 of 64 (Tradewinds – Water), and page 63 of 64 (Tradewinds – Wastewater). See also, Order Granting Interim Rates, issued October 27, 2027, at Schedule 3-A, pages 7 of 12 (Aquarina – Potable Water), 8 of 12 (Aquarina – Non Potable Water), and 9 of 12 (Aquarina – Wastewater).
[131] Tr. 563 ("Since its formation, the Company has had income tax net operating losses.")
[132] Tr. 566 ("the current income tax rules allow for only offsetting taxable income by 80% of recently generated NOLs and the related NOL carryforwards.")
[133] Tr. 661-662 (OPC's "methodology represents a significant departure from the normal methodology used to calculate income taxes in the state of Florida.")

owners failed to seek timely rate increases necessary to properly operate and maintain the systems. ***As a result, at the time of acquisition many of these systems were losing money, which means the rates the Company adopted when it acquired these systems - i.e., rates in effect at closing - were not fully compensatory even under the cost and investment structures previously in place. The additional costs CSWR Florida has and continues to incur to upgrade and improve the systems and operate them in a manner that ensures customers receive safe and reliable service that complies with all applicable health, safety, and environmental regulations have significantly increased operating losses***.[134]

Thus, as Mr. Theis explains, "ratepayers have already benefited from having CSWR Florida provide a more professional level of service at rates that were not fully compensatory. After receiving the benefits of such deflated rates, OPC now seeks to have the ratepayers benefit from lower rates in the future resulting from the net operating losses previously incurred. It is inequitable for the ratepayers to benefit in the future from the net operating losses that resulted from that previous underpriced service."[135]

In 2023, the Missouri Public Service Commission considered a similar adjustment and found that it was inappropriate to recognize past net operating losses in the calculation of income taxes included in future rates.

> ***The Commission finds that setting an income tax expense without consideration of Confluence Rivers' net operating loss carryforward balance is appropriate*** in this circumstance. Income tax expense, a hypothetical construct used in ratemaking, is the result of multiplying the rate base by the Commission authorized rate of return and then the statutory tax rate. This provides the utility recovery of the income tax expense associated with its authorized return on its investment.
>
> Confluence Rivers has purchased many water and sewer utilities in Missouri while leaving the existing utility rates in place. Some utility systems purchased by Confluence Rivers have not had rate increases for many years. Confluence Rivers has made capital improvements through investments and has maintained the utility system operations while actual costs have exceeded revenues generated by the existing rates.
>
> Rate cases allow for recovery of earnings on plant investments and the current costs to provide services through utility rates. Theoretically, only earnings create taxable income because rates provide recovery of all expenses. Revenues less expenses equals taxable income. When there is no taxable income there are no

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[134] Tr. 661 (citing to Cox Direct, Docket No. 20250052-WS, filed May 30, 2026, at page 10-11) (emphasis added). The outdated and non-compensatory nature of the adopted rates were exemplified by the fact that some systems had not had a rate increase (other than the small price index increases) in decades. For instance, Sebring Ridge had not had an increase since 1995. Additionally, Tymber Creek, CFAT H2O, and Tradewinds had not had rate increases since 2010.

[135] *Id.*, at page 10.

> earnings. When expenses exceed revenues, net operating losses are recognized equal to the excess expense amount. The existence of net operating losses indicates that Confluence Rivers has paid for expenses it did not recover from customer revenues.[136]

In support of its misplaced proposal to recognize past net operating losses as an offset to future income tax expenses, OPC refers to a Plantation Bay Utility Company rate case decision.[137] A review of that order, beyond the quote provided by OPC, reveals a multitude of concerns with OPC's referenced authority.

First and foremost, an honest review of that 2006 Plantation Bay decision leads to the conclusion that OPC's request to recognize past net operating losses as an offset to income taxes in future rates constitutes retroactive ratemaking. Specifically, in that decision, the Commission recognized that the Company had historically incurred net operating losses.[138] Given these historical net operating losses, the Company sought to add a deferred tax debit to its rate base calculation.[139] In its decision, the Commission rejected the Company's proposal as "retroactive ratemaking, which is prohibited by law."[140]

> The general principle of retroactive ratemaking is that new rates are not to be applied to past consumption. The Courts have interpreted retroactive ratemaking to occur when an attempt is made to recover either past losses (underearnings) or overearnings in prospective rates. Past losses are interpreted to be prior period costs that a utility did not recover through its rates, causing the utility to earn less than a fair rate of return. . . Plantation's proposal is an attempt to use prior losses to increase rate base by the amount of deferred taxes calculated on operating loss carry-forwards. Because it does not accord with Rule 25-14.013, Florida Administrative Code, and because it constitutes a request for retroactive ratemaking, the utility's proposal for including a net deferred tax debit in the rate base calculation is disallowed.[141]

Despite its application of the prohibition against retroactive ratemaking to prevent the recognition of a net deferred debit in rate base, the Commission inexplicably failed to apply that same prohibition when it considered the provision of income taxes in the revenue requirement. "The utility has never paid income taxes. The utility has substantial net operating loss carry-forwards. Although some of those loss carry-forwards will expire before being used, we believe that for the next five to six years, the utility will incur no income tax liability. . . Therefore, we decline to include a provision for income taxes in this case."[142] As indicated, it seems

[136] Tr. 662-663 (citing to *Report and Order*, Case No. WR-2023-0006, issued October 25, 2023, at pages 16-19 (emphasis added).
[137] Tr. 565 (citing to Order No. PSC-06-0170-PAA-WS, at page 48) (hereinafter, "Plantation Bay").
[138] *Plantation Bay* at page 26 ("The utility has never paid any federal or state income taxes. They have either hand operating losses for tax purposes or have used operating loss carry-forwards in all tax years since the inception of the company. This deferred tax debit was not caused by any action of this Commission, but by the utility's initial start-up losses. Also, the utility elected not to file for rate relief when these losses started to occur.")
[139] *Id.* ("The utility requests that a net deferred tax debit be added to its rate base calculation.")
[140] *Id.*, page 27.
[141] *Id.*, pages 27-28.
[142] *Id.*, page 48.

inconsistent for the Commission to utilize the prohibition against retroactive ratemaking to justify the refusal to include a net deferred debit in rate base, but simultaneously use the same net operating losses, from the same past periods, to justify failing to include any income taxes in rates.

As mentioned, the Missouri Commission previously rejected a similar proposal to utilize past net operating losses to reduce the amount of income taxes included in rates. In addition to addressing the equity of that proposal, the Commission also pointed out that such a proposal would violate the prohibition against retroactive ratemaking. "Reaching back to include actual revenues or expenses in prior years for determining expenses in the current rate case would be retroactive ratemaking. The Confluence Rivers expense deductions of prior calendar year tax returns that resulted in the net operating losses will never be recovered in rates because of the prohibition on retroactive ratemaking. . . On its face, [Staff's proposal] would appear to be unequitable in addition to being retroactive ratemaking."[143]

Not only is OPC's proposal inequitable and a violation of the doctrine against retroactive ratemaking, Staff's cross-examination also pointed out that OPC's proposal raised a multitude of additional issues. For instance, contrary to the recognized goal that ratemaking be based on "normal operations", OPC's proposal brings forward losses from previous years of start-up operations – resulting in rates that are not indicative of normal operations.[144] By using past net operating losses to reduce income taxes in current rates, OPC's proposal also effectively uses IRS regulations to "subsidize" current rates.[145] Finally, the utilization of past net operating losses to artificially reduce going forward rates has the effect of distorting price signals to customers of the cost and affordability of water and wastewater service.[146]

Given the multitude of problems with OPC's proposal to artificially reduce rates by considering past net operating losses, the Commission should reject OPC's recommendation.

<u>Issue 38</u>: What is the appropriate amount of test year income taxes?
Position: *Income taxes should be calculated based upon test year net income, after accounting for all agreed upon adjustments. The quantification of income taxes to be included in rates should not reflect recognition of net operating losses (Issue 37) and will be dependent on the Commission's decision on other pending issues.*

<u>Revenue Requirement</u>

<u>Issue 39</u> What are the appropriate revenue requirements for the January 31, 2025, test year?
Position: *The actual revenue requirement will be dependent on the Commission's decision on all the pending issues.*

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143 *Report and Order*, Case No. WR-2023-0006, issued October 25, 2023, at pages 19-20.
144 Tr. 693.
145 Tr. 694.
146 Tr. 695.

Rates and Rate Structure

Issue 40: What, if any, limits should be imposed on subsidy values that could result if stand alone rates are converted to consolidated rate structure for the water and wastewater systems?

Position: *None. Consolidation is a rate mitigation device. Recognizing that all systems will eventually require the same types of large capital investments over time, any perceived inequities or subsidies associated with rate consolidation will render those concerns invalid in the long-run.*

Argument: As mentioned in the Introduction and in Mr. Cox's witness summary, any solution to the problem with distressed water systems must necessarily include consolidation. "On a stand-alone basis, small systems simply do not work economically. When costs are borne by a small number of customers, rates can become unaffordable."[147] Given these unavoidable economics, the Company has proposed to gain the necessary scale by consolidating its rates statewide across its water and wastewater systems. As Mr. Cox points out, "without scale, economics fail."[148]

In his testimony, Mr. Duncan goes into detail regarding the numerous benefits of consolidation. ***First***, consolidation "mitigates rate impacts and promotes affordability."[149] This fact is demonstrated in this case. "As shown in the updated individual minimum filing requirements, the Aquarina stand-alone water rate average bill would be $99.73 a month. By spreading costs across the statewide number of customers, Aquarina's rate and average bill is moved to a consolidated rate of $44.91."[150]

Second, consolidation is intuitive when one recognizes that all of the CSWR-Florida systems "share many of the same costs of service, use the same third-party operations firm, and are managed to the same service quality standards."[151] ***Third***, consolidation and the utilization of a single set of tariffs "provides for a heightened level of regulatory, administrative, and billing efficiency. Specifically, CSWR-Florida, as well as the Commission, will not have to maintain familiarity with a multitude of rules and rates, which will lower customer costs."[152] ***Fourth***, Mr. Duncan asserts that, "since all systems will eventually require large capital investments over the next number of years, any perceived inequities associated with system subsidization will be short-lived and will eventually balance out."[153]

Fifth, and most importantly, the utilization of consolidation and single tariff pricing "helps to encourage the acquisition of small, troubled water and wastewater systems."[154] In a 2008 report, the National Regulatory Research Institute stated:

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[147] Tr. 61
[148] Tr. 63.
[149] Tr. 408.
[150] Tr. 417.
[151] Tr. 408.
[152] *Id.*
[153] *Id.*
[154] Tr. 54.

> Single tariff pricing is another way to encourage mergers. Enabling a uniform rate structure or consolidated rates for systems owned by the same entity may encourage a corporate utility to grow its business by acquiring whether contiguous or interconnected or not - other systems. With consolidated pricing, customers pay the same price even though their individual system may have unique operating characteristics and needs. Single tariff pricing makes it easier to share costs among larger numbers of customers.[155]

Undoubtedly, the ability to extract these benefits has led numerous state utility commissions to consolidate its rates. As Mr. Cox notes, "CSWR affiliates operating in Louisiana, Mississippi, Texas, Missouri, and Kentucky have all seen rates and tariffs for water and wastewater systems consolidated."[156] Specifically, the Kentucky Commission recently states:

> The Commission supports the principle that utility rates should be cost based, and that in most circumstances each class of utility ratepayers should pay the costs which the utility incurs to provide that class with utility service. The majority of Bluegrass Water's customers are in the residential class. ***A separate rate for each geographically distinct merged system of Bluegrass Water would create unreasonable and undue hardship to individuals in some areas served by Bluegrass Water***.[157]

The Arizona Commission's favorable opinion of consolidation is so strong that it has memorialized the utilization of consolidation into a policy statement.

> The private water utility industry in Arizona is highly fragmented and problematic. This Commission has seen first-hand the extent to which small water utilities sometimes struggle both financially and operationally. The struggles of these companies can have direct impacts on the service they provide to their customers. Consolidating the small systems through purchases by larger systems has long been proposed as a solution to the problems associated with small systems. This Commission has endorsed consolidation through purchase at various times over the past decades. We recognize that consolidation can be an effective method of solving problems associated with small systems and propose several policies here to encourage consolidation directly.
>
> Policy Regarding Rate Consolidation for Small Jointly Owned Water Utilities: The Commission has largely treated Small Utilities in rural areas as stand-alone entities for ratemaking purposes. Traditionally, a strict interpretation of the "cost user pays" principle has inhibited small water systems that do not share common facilities from consolidating rate designs. ***As a general policy, the Commission***

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155 Tr. 55 (Citing to Small Water Systems: Challenges and Recommendations, National Regulatory Research Institute, February 7, 2008 (citing to Joint Report cf the US EPA and NARUC, Consolidated Water Rates: Issues and Practices in Single Tariff Pricing, September 1999).

156 Tr. 56.

157 Tr. 56-57 (citing to In re: Bluegrass Water Utility Operating Company, Case No. 2022-00432, issued February 14, 2024, at page 96 (emphasis added)).

believes that the practical benefits from allowing rate consolidation involving small water and wastewater utilities far outweigh the benefits of a strict adherence to this theoretical principle.[158]

Undoubtedly, it was the desire to achieve these benefits that led this Commission to previously consolidate the rates for the 23 Sunshine Utilities water systems.[159] The Company simply asks that the Commission continue to embrace the benefits inherent in consolidation and combine the rates for the CSWR-Florida water / wastewater systems into a single statewide rate.

Issue 41: Which water systems, if any, should be consolidated into a single rate structure?
Position: *All water systems should be consolidated into a single rate structure. See Issue 40.*

Issue 42: What are the appropriate rate structures and rates for the water systems?
Position: *The proposed rate structure should: (1) contain a base facility charge and volumetric charge per 1,000 gallons and (2) reflect consolidated single tariff pricing for all water systems.*

Issue 43: Which wastewater systems, if any, should be consolidated into a single rate structure?
Position: *All wastewater systems should be consolidated into a single rate structure. See Issue 40.*

Issue 44: What are the appropriate rate structures and rates for the wastewater systems?
Position: *The proposed rate structure should: (1) contain a base facility charge with no volumetric charge and (2) reflect consolidated single tariff pricing for all wastewater systems.*

Other Issues

Issue 45: What are the appropriate miscellaneous service charges?
Position: *The appropriate miscellaneous service charges are as follows:

Type	Business Hours	After Hours
Initial Connection Charge	$50.75	$101.50
Normal Reconnection Charge	$50.75	$101.50
Violation Reconnection Charge	$50.75	$101.50
Premises Visit Charge (in lieu of disconnection)	$50.75	$101.50
Insufficient Check Charge	Pursuant to 68.065 F.S.	Pursuant to 68.065 F.S.
Meter Rampering	$50	$50
Credit Card Charge	2.25% of Bill	2.25% of Bill
ACH Charge	$0.75	$0.75
Late Payment Charge	$7.00	$7.00

Exhibit 104, pages 40 - 41; Exhibit 105, pages 45 – 46*

158 Tr. 411-412 (citing to Docket No. W-00000C-16-0151, Decision No. 75626, issued June 25, 2016, at pages 1 and 18 (emphasis added)).
159 Tr. 410.

Issue 46: What are the appropriate service availability charges?
Position: *The Company proposes to charge actual cost for various service availability charges (i.e., connections / tap fees, meter installation fees, inspection fees, and main extensions).*

Issue 47: Should any portion of the interim revenue increases granted be refunded?
Position: *No.*

Issue 48: What is the appropriate amount by which rates should be reduced after the established effective date to reflect the removal of the amortized rate case expense?
Position: *The Company proposes to amortize its rate case expenses over three years, allocate between water and wastewater operations, and recover through a surcharge based upon equivalent residential units. Since rate case expense would be collected through a surcharge, rates would not need to be reduced, the surcharge would simply end.*

Issue 49: Should the Utility be required to notify, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) associated with the Commission approved adjustments?
Stipulated Position (Type 1): *Yes, CSWR-Florida should be required to notify, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Commissioners (NARUC) Uniform System of Accounts (USOA) associated with the Commission approved adjustments.*

Issue 50: Are the resulting rates affordable within the meaning of fair, just, and reasonable pursuant to Sections 367.081 and 367.121 Florida Statutes?
Position: *There is no statutory authority for a finding on affordability of service.*

Issue 51: Should this docket be closed?
Position: *Yes.*

Respectfully submitted this 10th day of July, 2026.

/s/ David Woodsmall
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via e-mail on this 10th day of July, 2026, to the following:

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