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 THE FLORIDA OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel ("Citizens" or "OPC"), submit this Post-Hearing Brief pursuant to the Order Establishing Procedure, No. PSC-2025-0457-PCO-WS in this docket, issued on December 16, 2025.

STATEMENT OF BASIC POSITION

This proceeding arises from the application of CSWR-Florida Utility Operating Company, LLC ("CSWR-Florida" or "Utility") for a general rate increase for its Florida water and wastewater systems. Through this proceeding, CSWR-Florida seeks Commission approval of a substantial increase in base rates following its acquisition of numerous small water and wastewater utilities throughout Florida.

CSWR-Florida is an indirect subsidiary of Central States Water Resources, Inc. ("Parent"), whose business model is centered on acquiring small investor-owned water and wastewater utilities. Since entering Florida, CSWR-Florida has rapidly expanded through numerous acquisitions approved by the Florida Public Service Commission ("Commission"), frequently representing that its technical, managerial, and financial capabilities would improve service quality, address environmental compliance issues, and provide long-term benefits to customers. The present rate case is the first comprehensive opportunity for the Commission to evaluate whether those representations have materialized and whether customers have received the promised benefits.

The Office of Public Counsel does not dispute that regulated utilities are entitled to recover prudently incurred costs and earn a fair opportunity to recover a reasonable return on property that is used and useful in providing service. However, the burden rests entirely with CSWR-Florida to demonstrate that every component of its requested revenue requirement results in rates that are fair, just, reasonable, and not unfairly discriminatory, consistent with Sections 367.081 and 367.121, Florida Statutes.

The evidence developed from extensive discovery, numerous data requests, depositions, and presented in the record through testimony entered at the hearing demonstrates that CSWR-Florida has failed to satisfy that burden in several material respects.

First, despite repeatedly characterizing many of its acquired systems as distressed or neglected at the time of acquisition, the record demonstrates that CSWR-Florida continues to experience significant operational and environmental compliance issues. Numerous notices of violation, consent orders, customer complaints, billing disputes, and ongoing compliance deficiencies show that acquisition alone has not produced the immediate improvements in service quality that customers were promised. Rather than demonstrating sustained operational excellence, the record reflects continuing deficiencies that raise serious questions regarding whether customers have received benefits commensurate with the substantial rate increases now being requested.

Second, CSWR-Florida seeks recovery of costs that have not been shown to be reasonable, prudent, or recoverable under Florida law. Throughout this proceeding, OPC identified unsupported adjustments, excessive expenses, improper ratemaking treatment of certain costs, and requests that would require customers to bear costs that have not been adequately justified. In several instances, CSWR-Florida's evidentiary support was incomplete, inconsistent, submitted late in the process and only after extensive discovery, making meaningful review unnecessarily difficult.

Third, the record demonstrates that CSWR-Florida’s rapid acquisition strategy has outpaced its operational performance. While the Utility emphasizes growth through acquisitions, along with ongoing environmental compliance concerns, customers continue to experience service issues, billing problems, and customer service deficiencies. The Commission's statutory responsibility is not to reward expansion and consolidation for CSWR-Florida’s own sake, but to ensure that rates reflect prudent investments that improve utility service and provide tangible benefits to customers.

The evidence further demonstrates that many of the assumptions underlying CSWR-Florida’s requested revenue requirement overstate the amount necessary to provide safe, reliable, and compliant utility service. OPC's witness Ralph Smith presented numerous adjustments that more accurately reflect prudent expenses, reasonable rate base, appropriate tax treatment, and a fair rate of return consistent with established Commission precedent.

Ultimately, this case is not a referendum on whether small utilities should be acquired or whether infrastructure improvements are desirable. Rather, the central issue is whether CSWR-Florida has met its statutory burden to prove that the rates it requests are supported by competent, substantial evidence and produce rates that are fair, just, reasonable, and in the public interest.

The evidence demonstrates that it has not.

Accordingly, the Commission should reject those portions of CSWR-Florida's request that are unsupported, speculative, or inconsistent with Florida law and Commission precedent, adopt the adjustments proposed by OPC where supported by the record, and establish rates that protect customers while allowing recovery only of those costs that have been demonstrated to be reasonable and prudent.

STATEMENT OF FACTUAL ISSUES AND POSITIONS

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?

OPC Position: *No. At a minimum, the quality of service of CSWR-Florida's systems is deficient. The Commission should find these systems have marginal or unsatisfactory quality of service. The Commission should reduce the leverage graph-determined return on equity for the Utility by 25 basis points.*

ARGUMENT:

Sections 367.081(2)(a)1 and 367.0812, Fla. Stat., require the Commission to consider the quality of service and the extent to which CSWR-Florida provides service that meets quality standards as established by the Florida Department of Environmental Protection ("DEP"). In addition, Rule 25-30.433(1), F.A.C., specifies the commission must consider:

> Any Department of Environmental protection and county health department citations, violations and provisions of consent order that relate to quality of service; Any DEP and county health department officials' testimony concerning quality of service; any testimony, complaints and comments of the utility's customers and other with knowledge of the utility's quality of service.

The record demonstrates that CSWR-Florida customer service and billing practices have generated a high level of customer dissatisfaction that cannot be dismissed as an unavoidable consequence of acquiring systems CSWR-Florida claims are "in distress." Instead, the evidence shows a pattern of recurring billing errors, meter reading deficiencies, improper application of rates, and repeated apparent rule violations that continued for years after acquisition occurred and

CSWR-Florida management took control of certain systems. These problems bear directly on CSWR-Florida's problematic quality of service.

The significance of these complaints becomes even more apparent when viewed in context. The Commission's Consumer Activity Reports show that CSWR-Florida accounted for a disproportionate share of all complaints received against regulated water and wastewater utilities.[1] After acquiring and thus beginning to manage these systems, CSWR-Florida's complaint totals steadily increased, ultimately representing more than one-quarter of all complaints received by the Commission in 2025 and more than one-half of all complaints reported in January 2026. Rather than demonstrating improvements in service following its acquisitions, the trend shows deteriorating customer experience despite CSWR-Florida's assurances that consolidation and professional management would produce operational improvements.

The Utility's likely explanation—that it had acquired troubled systems—does not withstand scrutiny. The historical Consumer Activity Reports demonstrate that many of the predecessor utility owners generated relatively few complaints before acquisition. In several years, the predecessor utilities collectively generated only single-digit complaint totals. After CSWR-Florida assumed ownership, however, complaint activity increased dramatically. This comparison undermines any attempt by CSWR-Florida to attribute the present complaint volume solely to inherited infrastructure or historical operating conditions. Instead, the evidence suggests that many of the current complaints cannot be disassociated from CSWR-Florida's own management and operational practices. Certainly the Utility did not meet its burden to isolate ongoing service issues from its management of the systems.

[1] See table 1 below.

Equally troubling is the nature of the complaints themselves. Numerous complaints resulted in Commission Staff identifying apparent rule violations or Company errors that required corrective action. These were not simply instances where customers misunderstood their bills. Rather, Commission Staff documented cases involving improper rates applied, inaccurate meter readings, meters not read at regular intervals, meters operating outside Commission standards, improper billing for sewer service, billing the wrong customer, failure to timely refund deposits, and delayed service connections.

Taken together, the evidence paints a consistent picture. Customers repeatedly experienced incorrect bills, inaccurate meter readings, delayed corrections, improper charges, and other service deficiencies. Commission Staff repeatedly documented Company errors requiring refunds or credits. Complaint levels increased substantially after CSWR-Florida acquired these systems and ultimately represented a disproportionate percentage of all complaints received by the Commission. This is not the record of a utility that has demonstrated superior management or operational excellence.[2] Rather, it is the record of a utility that continues to struggle with fundamental customer service and billing functions while simultaneously asking the Commission to increase the rates paid by those same customers.

An illustrative example can be found in the following Table 1:

[2] Consistent with Issue 2 which is responsiveness to the Florida Department of Environmental Protection and failure to submit testing.

TABLE 1

Comparative Analysis of Customer Complaints from 2021 to Date				
Line No.	Description	Sunshine Water Services Company (1)	CSWR - Florida (2)	CSWR Complaints % Increases
1	Water Customers	35,171	12,540	
2	Wastewater Customers	29,547	7,624	
3	Total Customers	64,718	20,164	
4				
5	Y-T-D Complaints Per December 2022 FPSC's Consumer Activity Report (CAR) (3)	16	6	150%
6	Y-T-D Complaints Per December 2023 FPSC's CAR (3)	28	15	250%
7	Y-T-D Complaints Per December 2024 FPSC's CAR (3)	21	51	340%
8	Y-T-D Complaints Per December 2025 FPSC's CAR (3)	72	80	157%
9	Y-T-D Complaints Per February 2026 FPSC's CAR (3)	11	20	
10	Total Complaints from January 1, 2022 through February 28, 2026	148	172	
11				
12	Number of 2025 Complaints Per 1,000 Customers	1	4	
13	Number of 2025 Complaints Per 10,000 Customers	11	40	
14	% of Total 2022-2025 Complaints by Total 2025 Customers	0.21%	0.75%	
15				
16	Aquarina Utilities, Inc. Y-T-D Complaints Per December 2021 FPSC's CAR (3)		2	
17	BFF Corp. Y-T-D Complaints Per December 2021 FPSC's CAR (3)		0	
18	Neighborhood Utilities, Inc. Y-T-D Complaints Per December 2021 FPSC's CAR (3)		0	
19	North Peninsula Utilities Corporation Y-T-D Complaints Per December 2021 FPSC's CAR (3)		0	
20	Rolling Oaks Utilities, Inc. Y-T-D Complaints Per December 2021 FPSC's CAR (3)(4)		0	
21	Sebring Ridge Utilities, Inc. Y-T-D Complaints Per December 2021 FPSC's CAR (3)		2	
22	Sunshine Utilities of Central Florida, Inc. Y-T-D Complaints Per December 2021 FPSC's CAR (3)		0	
23	TKCB, Inc. Y-T-D Complaints Per December 2021 FPSC's CAR (3)		0	
24	Tradewinds Utilities, Inc. Y-T-D Complaints Per December 2021 FPSC's CAR (3)		0	
25	Tymber Creek Utilities, Incorporated Y-T-D Complaints Per December 2021 FPSC's CAR (3)		0	
26	Total Y-T-D Complaints in 2021		4	
27				
28	(1) Customer counts per Page 6 of Order No. PSC-2025-0196-FOF-WS.			
29	(2) Customer counts per Official Audit Workpaper 40-1.12 in Docket No. 20250052-WS.			
30	(3) Does not include non-certificated complaints logged, complaints transferred via the telephone transfer-connect or e-transfer process, or complaints			
31	logged and resolved under the three-day rule.			
32	(4) Rolling Oak Utilities, Inc. was under Citrus County's jurisdiction from 2021 until May 28, 2024, when the Count transferred regulation of the privately-owned			
33	water and wastewater utilities in Citrus County to the FPSC.			

Sunshine Water Services Company is the largest investor owned water and wastewater company in Florida. Despite Sunshine being the largest, CSWR-Florida has received more complaints per customer and has seen an increase in complaints since the purchase of its systems.[3]

Accordingly, Commission Staff Witness Plescow testified that during the period of February 1, 2021, to January 31, 2025, 29% of complaints logged with the Commission were CSWR-Florida's billing issues, and approximately 71% were involved with the quality of service. MPN C9-1012.

[3] The 2021-2026 Consumer Activity Reports are publicly available and can be found published on the Florida Public Service Commission's Website at https://www.psc.state.fl.us/consumer-activity-reports.

A disturbing trend continues both at the Commission and at the Florida Department of Environmental Protection, the lack of responsiveness. Staff Witness Plescow's EXH 127, MPN C9-1014-16 demonstrates that 58 service complaints were logged with the Commission. Nine of these were non-responsive to Staff's request within the 15-day time limit (approximately 16% of Commission requests to CSWR-Florida regarding service complaints were non-responsive). CSWR-Florida received 23 billing complaints through the Divisions of Consumer Affairs, five of which CSWR-Florida failed to respond timely to Commission Staff (approximately 23%). EXH 128, Master C9-1017-8. The totality of circumstances rose to the level of willfulness and should have warranted an investigation and the opening of a show cause docket.[4]

In total 80 complaints were logged against CSWR-Florida 26 of those appear that CSWR-Florida demonstrated violations (approximately 33% of complaints). MPN C9-1013. The Commission has previously found that mismanagement is evidence of imprudence and subjects a company to a penalty for mismanagement.[5] This evidence does not support the theme that CSWR-Florida is pushing in this case, that the Utility has come into the state and improved service through its purported "superior management or operational excellence."

CSWR-Florida seeks the benefits of monopoly utility status while failing to consistently deliver the corresponding obligation of quality of service. Allowing CSWR-Florida to receive the requested rate relief without consequence would send the wrong regulatory signal. Utilities should not be permitted to increase revenues, continue to acquire systems, and provide suboptimal service. Doing so effectively requires customers to pay more for service that has not met expectations and

---

[4] Order No. PSC-93-0295-FOF-WS, issued February 2, 1993, in Docket No.19910637-WS, at pp. 43-44, *In Re: Application for a Rate Increase in Pasco County by MAD HATTER UTILITY, INC.*

[5] Order No. 23573, issued October 3, 1990, in Docket No. 19891345-EI, pp. 22-29*, In re: Petition of Gulf Power Company for an increase in its rates and charges.* (The Commission reduced Gulf's ROE by 50 basis points due to mismanagement associated with admitted mismanagement over a period of years.)

eliminates any meaningful incentive for management to respond to ongoing deficiencies. The Commission has long recognized that rates and service quality are inextricably linked. When service quality fails, the Commission possesses both the authority and responsibility to ensure that shareholders, and not customers, bear the financial consequences. The quality of service evidence strongly suggests that there is little if any linkage between higher bills for customers and better service.

Accordingly, the Commission should find that CSWR-Florida's quality of service is unsatisfactory and impose a penalty of at least a 25 basis point reduction to the Utility's Return on Equity. This penalty would appropriately recognize the deficient service, protect customers from management failures, and create a meaningful incentive for CSWR-Florida to fix the systems they currently own and are responsible for, instead of paying for its aggressive acquisition growth strategy.

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?

OPC Position: *No. CSWR-Florida has multiple ongoing compliance issues with the Department of Environmental Protection. CSWR-Florida's post-acquisition trend of ongoing encounters with the Florida Department of Environmental Protection is indicative of chronic compliance problems.*

ARGUMENT:

The record demonstrates that CSWR-Florida has repeatedly represented itself as an experienced utility operator capable of acquiring distressed water and wastewater systems and bringing them into compliance with Florida's environmental requirements. The DEP's own compliance summaries tell a different story. Rather than demonstrating systematic improvements, DEP records reveal systemic patterns of regulatory violations, repeated enforcement actions, open consent orders, warning letters, missed sampling obligations, permitting deficiencies, and operational failures across numerous CSWR-Florida owned and operated systems.

The significance of this evidence is not merely the existence of isolated violations as every utility occasionally encounters compliance issues. Instead, the concern is the breadth, persistence, and recurrence of violations across many systems and several years. DEP's statewide compliance summaries show that many CSWR-Florida operated systems remain out of compliance despite the Utility's repeated assurances that acquisition and centralized management would improve environmental performance.

DEP's statewide drinking water compliance summary alone identifies numerous CSWR-Florida systems that remain out of compliance. Including, but not limited to: Ashley Heights, Belleview Oaks Estates, Country Walk, Eleven Oaks, Emil Marr, Florida Heights, Floyd Clark, Oak Haven Quadruplexes, Ocala Heights, Ocklawaha Water Works, Sunlight Acres, Sun Ray Estates, Oakcrest Villas, Whispering Sands, Winding Waters, Ponderosa Pines, and Quail Run. EXH 166. Many of these systems remain under open consent orders, warning letters, enforcement cases, or compliance assistance actions. The list is remarkable because it spans a substantial portion of CSWR-Florida's operations, not just one or two non-compliant systems.

The violations themselves are troubling. DEP documents repeated failures to perform required bacteriological sampling, failures to complete mandatory chemical monitoring, missed nitrate sampling, missed disinfection byproduct monitoring, failure to conduct licensed tank inspections, failures to obtain permits before replacing drinking water infrastructure, failures to calibrate flow meters, missing operating records, inadequate sampling plans, damaged storage tanks, deteriorated well pads, *E. coli* maximum contaminant level exceedances, and repeated monitoring and reporting deficiencies. These are not paperwork technicalities. They represent failures to perform the basic managerial, technical, and operational functions necessary to ensure safe drinking water and reliable utility operations.

Several systems illustrate the recurring nature of these compliance failures. Ashley Heights remains the subject of an open enforcement case. DEP records show missed chemical reporting, missed required-monitoring, a consent order involving damaged tanks and flow meter calibration, damage to well infrastructure, and an *E. coli* maximum contaminant level exceedance resulting from missed sampling. DEP specifically identifies the system as currently out of compliance. EXH 166.

County/System	WAFR ID	Compliance Status	Compliance Summary
Marion/ Sunshine (Ashley Heights S/D)	3424962	Not in compliance. Open enforcement case.	Jan 2022 - chems late report (lab issue); Mar 2022 - missed triennial endothall (SOC) report; Nov 2025 - consent order for damaged tank, flow meter calibration, well pad integrity; Dec 2025 - *E. coli* MCL exceedance due to missed sampling *System is currently out of compliance*

Country Walk also has persistent compliance issues despite multiple prior enforcement actions. DEP documents missed chemical monitoring, damages tanks, failures to obtain permits before replacing storage tanks, missed volatile organic compound monitoring, and a warning letter issued as recently as February of 2026. This system remains out of compliance. EXH 166, MPN E7242.

County/System	WAFR ID	Compliance Status	Compliance Summary
Marion/Country Walk	3424657	Not in compliance. Warning letter issued Feb 2026.	Mar 2022 - missed triennial endothall (SOC) and rads report; May 2022 - missed quarterly di-(20ethlyexyl)-phalate report; Jan 2023 - consent order for damaged tank, closed in Oct 2024; Feb 2025 - missed Q4 2024 total xylene and ethylbenzene; Oct 2025 - consent order for missed vinyl chloride (VOC) report, closed in Jan 2026; Dec 2025 - consent order for no permit to replace different size/type of tank *System is currently out of compliance*

Eleven Oaks similarly remains out of compliance following installation of an unapproved temporary drinking water tank, repeated failures to complete required monitoring, and constant orders involving unpermitted tank replacements. EXH 166, MPN E7242.

County/System	WAFR ID	Compliance Status	Compliance Summary
Marion/Eleven Oaks Subdivision	3424657	Not in compliance. Warning letter issued Feb 2026.	2021 missed endothall; Mar 2024 - installation of temp drinking water tank of different capacity without approval; Dec 2025 - consent order for no permit to replace different size/type of tank; 2025 missed endothall *System is currently out of compliance*

Florida Heights, Floyd Clark, Oak Haven Quadruplexes, Ocklawaha Water Works, Ocala Heights, Sunlight Acres, Sun Ray Estates, Oakcrest Villas/Sun Resorts, Whispering Sands, Winding Waters, Ponderosa Pines, several additional systems all remain subject to open consent orders or active enforcement actions involving similar operational and monitoring deficiencies.

EXH 166, MPN E7240-46. Collectively, these records demonstrate that the compliance problems are systemic, not isolated.

The wastewater systems present the same pattern. DEP identifies several wastewater facilities currently operating out of compliance, including Rolling Oaks, Sebring Ridge, Landfair, North Peninsula Utilities, and Tymber Creek. EXH 166, MPN E7241-46. These facilities have accumulated warning letters, notices of violation, consent orders, compliance assistance actions, sanitary sewer overflow events, odor complaints, effluent exceedances, and continuing enforcement activity.

Rolling Oaks is particularly illustrative. After CSWR-Florida acquired the facility, DEP advised the Utility that the plant remained obligated to meet existing permit compliance schedules. Rather than promptly correct the deficiencies, DEP records show that the Utility continued to discuss potential engineering revisions while failing to submit the necessary permit revision application. No complete permit application had been submitted by CSWR-Florida as of DEP's summary, and DEP stated its intent to pursue formal enforcement. EXH 166, MPN E7244.

Sebring Ridge likewise demonstrates continuing operational deficiencies. DEP issued warning letters in 2021, 2024, and again in 2025 for various violations. Then, in January 2026, the DEP was notified that the facility experienced a significant operational upset resulting in biosolids being discharged to rapid infiltration basins, requiring another DEP inspection. EXH 166, MPN E7245.

North Peninsula Utilities and Tymber Creek similarly remain out of compliance despite ongoing consent orders and enforcement activity. Tymber Creek accumulated repeated odor complaints, sanitary sewer overflows, notices of violation, multiple consent orders, and continuing enforcement activity extending into CSWR-Florida's ownership period. EXH 166, MPN E7245-6.

Importantly, the Commission should not view these matters as isolated historical events. DEP's statewide summaries repeatedly identify many systems as currently out of compliance, subject to open consent orders, subject to open enforcement cases, or operating under active warning letters. Those circumstances evidence subpar managerial, technical, and operational conditions existing years after CSWR-Florida ownership and management.

CSWR-Florida has consistently argued that its acquisitions improve compliance performance because of the Utility's operational expertise. TR 60. DEP's own compliance summaries alone undermine that assertion. While some violations may predate CSWR-Florida ownership, and DEP expressly notes that distinction where appropriate,[6] the critical fact is that many systems remain out of compliance years after acquisition, and new violations have occurred under CSWR-Florida's management, including failures to adequately report testing. The persistence of open consent orders, warning letters, enforcement cases, missed monitoring requirements, permitting deficiencies, and operational violations demonstrates that CSWR-Florida's ownership alone has not produced the promised compliance improvements. The Commission's obligation under Chapter 367 is to ensure that rates are fair, just, and reasonable while protecting the public interest. A utility seeking additional revenues necessarily bears the burden of demonstrating competent management and responsible utility operations. DEP evidence raises substantial questions regarding whether CSWR-Florida has adequately prioritized environmental compliance and operational performance across its Florida systems. Before customers are required to fund additional revenues, the Commission should carefully

[6] EX 166 E7245. Volusia County, North Peninsula Utilities WWTF "On May 6, 2022, a notice of violation, OGC#20-1313, was issued to the previous facility owner".

consider whether the Utility has demonstrated the level of regulatory compliance and operational excellence that customers are entitled to expect.

Ultimately, the DEP violations and continuing compliance concerns weigh against approving the Utility's requested return on equity without adjustment. Consistent with the Commission's authority to consider quality of service, the Commission should reduce the leverage-formula return on equity by 25 basis points. See also argument under Issue 1.

Rate Base

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

OPC Position: *The acquisition adjustments of Aquarina, North Peninsula, and Sunshine have not been approved by this Commission and should not be included in Rate Base.*

ARGUMENT:

The acquisition adjustments of Aquarina, North Peninsula, and Sunshine are not properly at issue in this docket,[7] or any docket as they have previously been denied in the final orders issued in Docket Nos. 20210133-SU, 20210095-WU, and 20210093-WU. The subject of this rate proceeding is determination of the revenue requirement and cost of service to be used in establishing fair, just, and reasonable rates based upon the Utility's used and useful plant, revenues, and expenses. The acquisition premium request in this docket therefore is untimely and purely speculative. To the extent CSWR-Florida seeks to recover costs from future acquisitions, those matters belong to separate proceedings where the Commission can fully evaluate whether the transaction is compliant with the rules and requirements.

[7] TR 69.

Consistent with Staff Audit Finding 3 and the errata, the Commission should make the appropriate adjustments to rate base consistent with that finding in Land and Land Rights. EXH 126, MPN C8-1010T.

ISSUE 4: Should any adjustments be made to test year plant-in-service balances?

OPC Position: *Yes. The record supports that plant-in-service adjustments should be made.*

ARGUMENT:

The Commission should reduce CSWR-Florida's test year plant-in-service balances, including the balances recorded in Land and Land Rights. The evidence adduced at hearing demonstrates that a substantial portion of the Utility's claimed land balances consists not of the original cost of utility land, but of transaction costs incurred during acquisition of systems from prior owners.

During cross-examination, CSWR-Florida Witness Thies admitted that the approximately $110,000 of Rolling Oaks closing costs included in the Land and Land Rights account were not attributable to the seller's original acquisition of land for public service. TR 696-7. When asked whether these costs were attributable to the seller's original acquisition of the land, Mr. Thies answered, "Not by the seller. Correct." *Id.* He further acknowledged that these costs included title insurance, recording costs, and similar expenses that did not exist prior to CSWR-Florida's acquisition. *Id.* Likewise, Mr. Thies admitted that similar acquisition-related costs were included in the Land and Land Rights balances for the remaining utility systems. Although he attempted to characterize those costs as associated with the transfer of land, he acknowledged they arose from CSWR-Florida's acquisition of the systems rather than from the original acquisition of the land itself.

Florida ratemaking is based upon original cost. The Land used to provide utility service was already devoted to service prior to CSWR-Florida's purchase. The subsequent costs incurred by CSWR-Florida to acquire ownership of the utilities does not create additional utility land, expand capacity, or provide new plant used and useful in serving customers. Rather they are transaction costs associated with a change in ownership. This position would allow every future purchaser of the same utility system to continually increase rate base merely by incurring new acquisition costs.

CSWR-Florida argued that the Uniform System of Accounts permits recording surveys, easements, title work, appraisals, and closing costs in account 303. TR 701; MPN D4-69G, However, the Uniform System of Accounts is an accounting manual. It does not automatically establish that costs are recoverable through regulated rates.

Staff's revised Audit Finding 3 shows that Staff compared the Utility's recorded land balances with the land values previously recognized by the Commission at acquisition. TR 684-685. Staff therefore correctly concluded that land and land rights should remain the same as that recognized by the Commission and recommended disallowance all post-acquisition costs in its audit presentation. EXH 126, MPN C8-1010s-v.

Although CSWR-Florida contended these additional costs represent easements, title work, surveys, and other post-acquisition costs, the testimony establishes that the disputed amounts are acquisition and closing costs that arose because of CSWR-Florida's decision to purchase the systems. Customers receive no additional land investment or plant from those transactions. The customers receive service from the same land that was already providing them service before CSWR-Florida acquired the systems.

Accordingly, the Commission should agree with Staff Audit Finding 3 and reject CSWR-Florida's attempt to expand rate base through acquisition-related transaction costs and reduce the Utility's test year plant in service balance and land and land rights accounts to remove these costs as shown in the audit. Doing so preserves the original cost foundation of Florida ratemaking and ensures that customers only pay a return on actual utility property devoted to service.

<u>ISSUE 6:</u> What are the appropriate plant retirements to be made in this docket?

OPC Position: *Yes. The record supports that adjustments should be made for plant retirements. consistent with Staff Audit Finding 2 and in accordance with Rule 25-30.140 F.A.C.*

ARGUMENT:

The appropriate retirement and net salvage value of plant is accurately reflected in Staff Audit Finding 2. Based on Rule 25-30.140 (F.A.C.), the retirement of Water and Wastewater Plant for Accounts 341 – Transportation Equipment, 345 – Communication Equipment, 391 - Transportation Equipment, and 395 – Communication Equipment must be reduced by application of a net salvage value of 10%. EXH 175, MPN F2-3023. Similarly, a net salvage of 5% must be applied to Accounts 346 and 396 – Power Operated Equipment. The adjustments to CSWR-Florida's plant retirements and associated accounts should be adjusted consistent with Audit Finding 2 and associated work papers. EXH 175, MPN F2-3023.

<u>ISSUE 7:</u> Do any water systems have excessive unaccounted for water and, if so, what adjustments are necessary, if any?

OPC Position: *Yes. 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.*

ARGUMENT:

Yes. At a minimum seven systems have excessive unaccounted for water. Aquarina (27%), C.F.A.T (17%), Neighborhood (27%), Rolling Oaks (28%), Sunshine Consolidated (22%), Sunshine Ponderosa (26%), Sunshine Quail Run (12%) Tradewinds (3%), and Tymber Creek (23%). Each system that the Commission finds to have excessive unaccounted for water must have corresponding reductions to purchased power, chemicals, and/or purchased water expenses. Appropriate adjustments should be made in Issue 32.

<u>ISSUE 8:</u> Do any wastewater systems have excessive infiltration and/or inflow and, if so, what adjustments are necessary, if any?

OPC Position: *Yes, it is possible that some systems have excessive infiltration and/or inflow, but CSWR-Florida has not adequately addressed this issue in its testimony and filing and thus has not carried its burden to refute this possibility. Any excessive infiltration and inflow for each system determined by the Commission must have applicable corresponding reductions to purchased power, chemicals, and/or purchased wastewater expenses. Appropriate adjustments should be made in Issue 32.*

ARGUMENT:

It is possible that some systems have excessive infiltration and/or inflow, but CSWR-Florida has not adequately addressed this issue in its testimony and filing and thus not carried its burden to refute this possibility. If the Commission determines that any of CSWR-Florida's systems have excessive infiltration and/or inflow the Commission must apply corresponding reductions to purchased power, chemicals, and or purchased wastewater expenses. The corresponding adjustments should be made in Issue 32.

ISSUE 9: What are the appropriate used and useful percentages for the water treatment and related facilities of each water system?

OPC Position: *The appropriate used and useful percentages for the water treatment and related facilities are 100% for each applicable system, except for the CFAT system which is 65% used and useful consistent with its last rate case.*

ARGUMENT:

All water treatment and related facilities, except for CFAT, are 100 percent used and useful. The CFAT system is 65% used and useful consistent with its last rate case. If the Commission determines a system has non-used and useful water treatment and related facilities, the corresponding adjustment should be made to Account No. 320.3.

ISSUE 10: What are the appropriate used and useful percentages for the water storage and related facilities of each water system?

OPC Position: *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%).*

ARGUMENT:

CSWR-Florida's water storage and related facilities are 100% used and useful except for Aquarina (61%), C.F.A.T (38%), and CFAT (86%). If the Commission determines any system is not at 100% used and useful adjustments should be made accordingly to Account No. 330.

ISSUE 11: What are the appropriate used and useful percentages for the water distribution and related facilities of each water system?

OPC Position: *The appropriate used and useful percentages for water distribution and related facilities are 100% for each applicable system, except for Aquarina potable distribution system (81%) and Rolling Oaks distribution system (93%).*

ARGUMENT:

CSWR-Florida's water storage and related facilities are 100% used and useful except for Aquarina potable distribution system (81%) and Rolling Oaks distribution system (93%). If the Commission determines that any water distribution and related facilities is not 100% used and useful appropriate adjustments should be made to Account No. 331.4.

<u>ISSUE 12:</u> What are the appropriate used and useful percentages for the wastewater treatment and related facilities of each wastewater system?

OPC Position: *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%).*

ARGUMENT:

Four of CSWR-Florida's systems have wastewater treatment and related facilities of less than 100% used and useful. Aquarina (56%), C.F.A.T. (39%), Rolling Oaks (55%), Sebring (81%),

<u>ISSUE 13:</u> What are the appropriate used and useful percentages for the collection lines and related facilities of each wastewater system?

OPC Position: * CSWR-Florida's used and useful percentages for collection lines and related facilities are 100% except for Aquarina (86%), Rolling Oaks (74%), and Sebring Ridge (79%). The appropriate adjustments should be made to Account Nos. 354.2, 360.2, 361.2, 362.2, 364.2, 365.2, and 389.2.*

ARGUMENT:

CSWR-Florida's used and useful percentages for collection lines and related facilities are 100% except for Aquarina (86%), Rolling Oaks (74%), and Sebring Ridge (79%). The appropriate adjustments should be made to Account Nos. 354.2, 360.2, 361.2, 362.2, 364.2, 365.2, and 389.2.

<u>ISSUE 14:</u> Should any adjustments be made to test year accumulated depreciation?

OPC Position: *Yes. The record supports that adjustments should be made for test year accumulated depreciation.*

ARGUMENT:

Accumulated depreciation represents the accumulated recovery amount of assets over their respective average useful lives. CSWR-Florida applied the appropriate depreciation rates to Class A/B utilities. If the Commission does not approve consolidation of CSWR-Florida's systems, the Commission should make appropriate adjustments to the respective systems consistent with Audit Finding 5. EXH 126, MPN C8-1010h-m.

<u>ISSUE 17:</u> Should any adjustments be made to the acquisition adjustments included in the test year?

OPC Position: *Yes. Acquisition adjustments for Aquarina, North Peninsula, and Sunshine Utilities should be excluded.*

ARGUMENT:

The acquisition adjustments of Aquarina, North Peninsula, and Sunshine are not properly at issue in this docket, or any docket as they have previously been denied in Docket Nos.

20210133-SU, 20210095-WU, and 20210093-WU. The Commission should remove all acquisition adjustment related costs from CSWR-Florida's revenue requirement because those costs arise exclusively from CSWR-Florida's acquisition strategy and should be treated consistently with the Utility's failure to meet its burden to demonstrate entitlement to recovery of acquisition the various acquisition premiums due to the untimeliness of its claims given the finality of the decisions denying them years ago.

Allowing recovery of acquisition adjustment related expenses while excluding the acquisition adjustments themselves would effectively permit indirect recovery of costs the Commission has previously denied and circumvention of the final decisions in those cases.. Moreover, these costs do not improve quality of service, water/wastewater treatment, reliability, environmental compliance, or customer service. Acquisition related costs do not construct new plants, replace infrastructure, or reduce operating expenses.

Accordingly, the Commission should eliminate from the revenue requirement all expenses, taxes, financing costs, amortization, carrying charges, and other revenue requirement components that are directly or indirectly attributable to acquisition adjustments. Doing so ensures that rates reflect only the reasonable cost of providing utility services and prevents customers from improperly financing CSWR-Florida's acquisition strategy through regulated rates.

ISSUE 18: What is the appropriate working capital allowance?

OPC Position: The appropriate working capital allowance should be derived in accordance with Rule 25-30.433, F.A.C., as applicable given the class size of individual systems.

ARGUMENT:

Pursuant to Rule 25-30.433(3), F.A.C., working capital for Class A utilities shall be calculated using the balance sheet approach. Working capital for Class B and C utilities shall be calculated using the formula method (one-eighth of operation and maintenance expenses). As such, the resolution of this issue is dependent upon the Commission's decision to consolidate CSWR-Florida's systems. If consolidation is granted CSWR-Florida's working capital should be calculated using the balance sheet approach. If consolidation is disallowed, working capital should be calculated based upon the applicable size of each system.

ISSUE 19: What are the appropriate rate bases for the January 31, 2025, test year?

OPC Position: *This is a fall-out issue. Pending the resolution of other issues, the proposed rate bases for water and wastewater are subject to change.*

Cost of Capital

ISSUE 25: What return on equity (ROE) should be approved for use in establishing the utility's revenue requirement for the test year?

OPC Position: *The Commission should use the ROE based on the current leverage formula in effect at the time of the Commission's vote. The leverage formula-derived ROE should then be reduced by 25 basis points for deficient service quality as reflected in Issue 1 and 2.*

ARGUMENT:

The Commission should use the ROE based on the current leverage formula in effect at the time of the Commission's vote. The leverage formula-derived ROE should then be reduced by 25 basis points for deficient service quality and DEP compliance issues reflected in Issues 1 and 2.

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?

OPC Position: *The appropriate weighted average cost of capital is as reflected in Exhibit RCS-2 and RCS-10, Schedule D. The resolution of this issue is dependent upon the Commission's decision on the consolidation of CSWR's numerous systems.*

ARGUMENT:

The appropriate weighted average cost of capital as reflected in Exhibit RCS-2 and RCS-10 Schedule D should be reduced by 25 basis points for the deficient quality of service and DEP compliance issues. EXH 107, MPN C7-755-6; EXH 115, MPN C7-840-1. As such the resolution of this issue is dependent upon the Commission's decision of consolidating CSWR-Florida's systems and a corresponding reduction to ROE of 25 basis points.

ISSUE 27: What are the appropriate test year revenues?

OPC Position: *If the test year gallons sold data is too low, the resulting rates will, all other things equal, be overstated. This may cause the utility to overearn in subsequent years. Conversely, if the test year gallons sold data is too high, then the resulting rates will be less than compensatory. Test year revenues should be based on the appropriate level of service-rate, billing determinants. Additionly, any incremental increase of miscellaneous service charges approved in Issue 45 should be annualized to reflect the appropriate test year revenues for ratemaking purposes.*

ARGUMENT:

A utility is required to annualize test year revenues to reflect the effect of any rate increase that accrued during the test year. Consistent with Audit Finding 9. EXH 126, MPN C8-949. Any Miscellaneous service charges approved in Issue 45 should be annualized.[8]

---

[8] Order No. PSC-09-0385-FOF-WS, p. 78, Issued May 29, 2009, *In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.*

ISSUE 28: What adjustments, if any, should be made to account for the audit adjustments related to net operating income?

OPC Position: *The record reflects that, consistent with the audit, adjustments related to net operating income should be made.*

ARGUMENT:

Adjustments related to net operating income should be made consistent with the Audit. EXH 175, F2-3970-4025.

ISSUE 29: What is the appropriate amount of rate case expense?

OPC Position: *Any rate case expense associated with MFR deficiencies or other imprudent costs should be disallowed. All proposed rate case expense related in any way to acquisition adjustments should be excluded from revenue requirements.*

ARGUMENT:

Any rate case expense associated with MFR deficiencies or other imprudent costs should be disallowed. All proposed rate case expense related in any way to acquisition adjustments should be excluded from revenue requirements.

ISSUE 31: Should any adjustment be made to the Utility's proposed management expenses?

OPC Position: *Yes. Adjustments are appropriate, especially to the extent that such costs include any costs related to acquisition of systems as discussed in Issue 17.*

ISSUE 32: Should any further adjustments be made to the Utility's test year O&M expenses?

OPC Position: *Yes. 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. Any excessive infiltration and inflow for each system determined by the Commission must have applicable corresponding reductions to purchased power, chemicals, and/or purchased wastewater expenses. Adjustments are appropriate. All acquisition related costs should be excluded.*

ISSUE 32A: Should any adjustment be made to industry association dues?

OPC Position: *Yes. All lobbying included in industry association dues should be removed from expenses and treated below the line.*

ARGUMENT:

The Commission has a long, well-settled policy of disallowing lobbying expenses.[9] Staff Witness Mouring agreed, that "[i]f lobbying expenses are identified, that would be something [the auditors] would remove." TR 616. Lobbying expenditures are embedded within membership dues paid to industry associations such as American Water Works Association ("AWWA") and National Association of Water Companies ("NAWC"). CSWR-Florida is a member of both associations. According to Witness Thies the AWWA and NAWC webpages demonstrates that both organizations lobby. TR 664; D4-64. When asked whether the AWWA and NAWC engage in lobbying his response was that they do. TR 468.

[9] *E.g.*, *Gulf Power Co. v. Bevis*, 296 So. 2d 482, 485 (Fla. 1974); Order No. PSC-2011-0547-FOF-EI, issued November 23, 2011, in Docket 20110009-EI, at pp. 28-29, *In re: Nuclear Cost Recovery Clause*; Order No. PSC-2014-0025-PAA-WS, at p. 33, *In re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida. See also*, Order No. PSC 2014-0714-FOF-EI, issued December 31, 2014, in Docket No. 20140007-EI, at p. 6, *In re: Environmental Cost Recovery Clause* (declining to extend cost recovery to activities involved in shaping policies).

Whether or not CSWR-Florida believes these associations lobby for the benefit of rate payers, lobbying is lobbying and is a disallowed expense. OPC witness Ralph Smith has identified lobbying expenses related to industry association dues, and a corresponding reduction to CSWR-Florida proposed expenses due to lobbying for the water utilities by $3,495 and for the wastewater utilities by $2,111, for a total reduction of $5,605. EXH 125, MPN C7-916-7; MPN C707-9.

The OPC acknowledges that the non-lobbying portion AWWA and NAWC dues are above-the-line expenses. However, any prospective deviation from the Commission's long-standing practice of excluding lobbying portion of national association dues should be done in a Commission workshop because changing its practice could affect all jurisdictional electric, gas, and water and wastewater investor-owned utilities who incur national association dues. Further, other than the few examples provided by CSWR-Florida witness Cox (TR 82-84), the OPC would point out that there is no complete and documented demonstration by the Utility of all AWWA and NAWC lobbying activities in the test year and beyond in the record for the instant case. The Commission should continue to operate under the assumption that lobbying is undertaken primarily for the benefit of shareholders and continue to account for these costs below-the-line as recommended by OPC witness Ralph Smith.

ISSUE 33: Should any adjustments be made to test year taxes other than income?

OPC Position: *Yes. The cost attributable to the forfeiture of any property tax discounts should be treated below-the-line consistent with the Commission's practice.*

ARGUMENT:

Consistent with Staff Audit Finding 11, CSWR-Florida has foregone early payment to receive a property tax bill and thus forfeited discounts attributable to the early payment and overpaid by approximately $5,400. EXH 126, MPN C8-969. Customers should not be pay for CSWR-Florida's foregone discounts.

ISSUE 34: Should any adjustments be made to test year depreciation expense?

OPC Position: *Yes. Depending upon the Commission determination regarding consolidation, adjustments should be made for incorrect net salvage percentage-driven depreciation rates in violation of Rule 25-30.140, F.A.C.*

ARGUMENT:

CSWR-Florida applied the appropriate depreciation rates to Class A/B utilities. If the Commission does not approve consolidation of CSWR-Florida's systems, the Commission should make appropriate adjustments to the respective systems consistent with Audit Finding 5. EXH 126, MPN C8-1010h-m.

ISSUE 36: Should any adjustments be made to the acquisition adjustment amortization expense included in the test year?

OPC Position: *Yes. Acquisition-related expenses associated with the acquisition adjustments for Aquarina, North Peninsula, and Sunshine Utilities should be excluded to the extent that they resemble acquisition amortization expenses or are otherwise indirectly flowing through to customers the costs of acquisition as also discussed in Issue 17.*

ARGUMENT:

The Utility did not request amortization expenses associated with the acquisition adjustments. TR 552, MPN C7-687. Therefore any acquisition adjustment amortization expense should be excluded from the test year. Additionally, acquisition-related expenses associated with the acquisition adjustments for Aquarina, North Peninsula, and Sunshine Utilities should be excluded to the extent that they resemble acquisition amortization expenses or are otherwise indirectly flowing through to customers the costs of acquisition See argument on Issue 17.

ISSUE 37: Should net operating losses be used to lower income tax expense?

OPC Position: *Yes. CSWR-Florida has had both book and income tax in that period. NOLs in each year since its inception. Thus, the Utility did not have positive taxable income and has not paid income taxes. NOL carryforwards arising in tax years 4 beginning after 2020 can offset a maximum of 80% of taxable income in a single tax year. Such NOLs can be carried forward indefinitely, but the 80% limitation applies annually, with unused federal income tax NOLs continuing to carry forward. The calculated state and federal taxable income before application of the NOL carryforwards should be reduced by 80%. The income tax allowances for each system are calculated on Schedule 17 A-1 of Exhibits RCS-3 through RCS-9 for each water utility and on Exhibits RCS-11 through RCS-19 to each wastewater utility to show the application of the NOL carryforwards to offset 80% of the applicable state and federal taxable income.*

ARGUMENT:

The Commission should continue to follow its precedent and OPC's adjustment to recognize CSWR-Florida's available Net Operating Loss ("NOL") carryforwards in calculating the Utility's income tax expense. Consistent with the longstanding Commission precedent, the revenue requirement should reflect the Utility's actual tax liability, not a hypothetical tax expense that the Utility will not incur.

The Commission articulated this principle in the Sebring Gas System Inc. case.[10] There, the Commission recognized that even if a company anticipated positive earnings, the accumulated NOLs would continue to offset taxable income for several years. The Commission explained that a corporation may carry forward NOLs for up to twenty years and found that it would take several

[10] Order No. PSC-04-1260-PAA-GU, and Consummating Order No. PSC-05-0039-CO-GU, *In Re: Application for rate increase by Sebring Gas System Inc.*

years prior to the company fully utilizing those losses.[11] Equally important, the Commission stated that customers do not benefit from tax losses generated by NOLs.[12]

By Order No. PSC-06-0170A-PAA-WS, In re: *Application for increase in water and wastewater rates in Volusia County by Planation Bay Utility Company* the Commission rejected the utility's request to include an income tax provision because the utility had substantial NOLs. The Commission explained "[t]he utility has proposed that an income tax provision be calculated. We disagree with this proposal. The utility has never paid income taxes. The utility has substantial net operating loss carry-forwards. Although some of these 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."

The Commission therefore declined to allow customers to pay an income tax expense that the utility was not expected to incur. The Commission reaffirmed this principle in Order No. PSC-13-0187-PAA-WS, *In re: Application for increase in water and wastewater rates in Orange County by Pluris Wedgefield, Inc.*, which states in part "[h]owever, consistent with Commission practice, we find that the Utility's tax liability shall be offset with NOL carry-forwards because the ratepayers have not benefited from the tax losses Wedgefield has accumulated." (footnote omitted).

These holdings are significant for two reasons. First, they confirm that NOL carryforwards must be used to offset tax liability when calculating the revenue requirement. Second, it recognizes

[11] "Further, the customers have not benefited from the tax losses the Company has accumulated over the years, as evidenced by zero income tax expense reflected in prior years' Annual Reports and Earnings Surveillance Reports. Therefore, we find that the amount of income tax expense reflected in the MFRs shall be zero and the federal and state income tax factors in the revenue expansion factor shall be omitted." Consummating Order No. PSC-05-0039-CO-GU for Order No. PSC-04-1260-PAA-GU, Docket No. 20240270-GU, *In re: Application for rate increase by Sebring Gas System, Inc.*

[12] *Id.*

a fairness principle. If ratepayers did not receive the benefit of the losses that generated NOLs, customers should not be charged rates that reflect tax expenses that the utility will avoid paying.

That same principle applies in this proceeding. CSWR-Florida seeks recovery of an income tax expense that exceeds the taxes it will actually pay. CSWR-Florida has never made a profit at the parent or subsidiary level. MPN C7-701; TR 464. Thus, CSWR-Florida has never paid income taxes. MPN C7-701. Allowing the Utility to recover a hypothetical expense violates the obligation to establish rates that are not fair and just. Customers should not provide revenues to cover an expense the Utility will not incur.

The recognition of the Utility's NOL carryforwards prevents an unwarranted windfall to CSWR-Florida's shareholders. If rates include an income tax allowance while the Utility uses NOL carryforwards to eliminate its actual tax payments, the difference is retained by shareholders rather than paid to the taxing authority. The revenue requirement fallout would therefore overstate the actual cost of providing service.

Accordingly, consistent with Orders PSC-13-0187-PAA-WS and PSC-06-0170A-PAA-WS, the Commission should apply the applicable NOLs when determining CSWR-Florida's income tax expense. Doing so ensures the revenue requirement accurately reflects tax obligations, prevent shareholders from receiving windfalls, and protects the customers from paying rates that exceed the actual cost of providing service.

ISSUE 38: What is the appropriate amount of test year income taxes?

OPC Position: *This is a fallout issue. Pending the resolution of other issues, the income taxes will depend upon the specific level of revenues authorized by the Commission and the NOL issue resolution under Issue 37.*

Revenue Requirement

ISSUE 39: What are the appropriate revenue requirements for the January 31, 2025, test year?

OPC Position: *The revenue requirement issue is a fallout issue and is subject to change based on the resolution of other issues. *

Other Issues

ISSUE 45: What are the appropriate miscellaneous service charges?

OPC Position: *The appropriate miscellaneous service charges should be based on supporting cost justification. Test Year Operating Revenues should be adjusted to reflect the impact of these new charges that will be collected when rates are implemented.*

ISSUE 47: Should any portion of the interim revenue increases granted be refunded?

OPC Position: *The Commission should follow the steps set forth in Florida Statute section 367.082 to compute the refund of interim rates. In no event should costs that are disallowed in final rates be allowed for interim rates.*

ARGUMENT:

The Commission should follow the steps set forth in Florida Statute section 367.082 to compute the refund of interim rates. In no event should costs that are disallowed in final rates be allowed for interim rates. If the Commission only excludes the acquisition adjustments include in rate base, reduces the land amounts as prescribed by Staff Witness Mouring, and agrees with OPC Witness Smith to reduce income taxes by 80% of the Utility's NOL carryforwards, the OPC would note that the majority of CSWR-Florida systems for which the

Commission approved holding reserves subject to refund for interim purposes will require refunds with interest to those customers.

<u>ISSUE 48:</u> 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?

OPC Position: *This is a fallout issue and pending the resolution of Issue 29.*

<u>ISSUE 50:</u> Are the resulting rates affordable withing the meaning of fair, just, and reasonable pursuant to Sections 367.081 and 367.121 Florida Statutes?

OPC Position: *No. Pursuant to Sections 367.081 and 367.121, Florida Statutes, the Commission must approve only rates that are fair, just, reasonable, and not unfairly discriminatory. The Commission should disallow all unreasonable, imprudent, unsupported, or unnecessary costs to ensure customers pay no more than necessary for safe and reliable utility service. The resulting rates must balance the utility's opportunity to earn a fair return with the affordability interests of its customers.*

ARGUMENT:

The Commission cannot evaluate affordability in a vacuum. Customers are not concerned with whether costs are recovered in a single proceeding or through a series of proceedings; they experience the cumulative effect on their monthly bills. Approving the requested increases without considering the prospect of future recovery of tens of millions of dollars in acquisition-related costs risks subjecting customers to a continuing cycle of rate increases that may ultimately render service unaffordable. This concern is especially acute for residential customers, retirees, and fixed-income households that make up a significant portion of CSWR-Florida’s customer base.

The record also demonstrates that many of the costs driving the requested increase are acquisition-related costs arising from CSWR-Florida's corporate growth strategy rather than from investments necessary to provide current utility service. Customers should not be required to finance the consequences of the Utility's acquisition decisions through rates that exceed what is necessary to provide safe and reliable service. To the extent acquisition adjustments inflate rates beyond the cost of serving customers, they undermine the statutory requirement that rates be fair and reasonable.

Accordingly, the Commission should scrutinize the impact of the affordability of CSWR-Florida's requested increase and reject any costs that would impose an unreasonable burden on customers. The Commission should deny recovery of acquisition adjustments that are not properly before it, exclude costs that do not directly benefit current customers, and approve only those revenues necessary to produce rates that are fair, just, reasonable, and affordable within the meaning of Sections 367.081 and 367.121, Florida Statutes.

ISSUE 51: Should this docket be closed?

OPC Position: *No.*

Respectfully submitted,

Walt Trierweiler
Public Counsel
Florida Bar No.: 912468

/s/ Austin A. Watrous
Austin A. Watrous
Associate Public Counsel
Florida Bar No. 1044249

Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
DOCKET NO. 20250052-WS

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 10th day of July, 2026, to the following:

Jennifer Crawford
Zachary Bloom
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
jcrawfor@psc.state.fl.us
zbloom@psc.state.fl.us
discovery-gcl@psc.state.fl.us

Susan F. Clark, Esq.
Thomas A. Crabb, Esq.
Jordann Wilhelm, Esq.
Radey Law Firm
301 South Bronough Street, Suite 200
Tallahassee, FL 32301
sclark@radeylaw.com
tcrabb@radeylaw.com
jwilhelm@radeylaw.com
sturner@radeylaw.com

Aaron Silas
CSWR-Florida Utility Operating Company
1630 Des Peres Road, Suite 140
Des Peres, MO 63131
asilas@cswrgroup.com
regulatory@cswrgroup.com

/s/ Austin A. Watrous
Austin Watrous
Associate Public Counsel
watrous.austin@leg.state.fl.us