247753

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November 22, 2013

Via Hand-Delivery
Daniel E. Shearouse
Clerk of Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

COPY
Posted: 2001
Dept: S.A.
Date: 11/25/13
Time: 10:46

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2013 NOV 22 PM 4:20
SC PUBLIC SERVICE COMMISSION

RE: Appeal from Public Service Commission Docket No. 2013-42-S
Our File No. 5999.001

Dear Mr. Shearouse:

Please find enclosed for filing the original and one copy of the Appellants' Notice of Appeal, appealing from two decisions of the Public Service Commission bearing PSC Docket No. 2013-42-S. Also enclosed is this firm's check in the amount of $100.00 for the filing fee.

Kindly file the above and return a clocked-in copy to me via my courier. By copy of this letter, the enclosed Notice of Appeal is being served upon the Public Service Commission and counsel for the Respondents.

If you should have any questions, please do not hesitate to contact me.

With kind regards, I am

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Sincerely,

CALLISON TIGHE & ROBINSON, LLC

Kathleen M. McDaniel

Encl.

cc: Jocelyn Boyd, Chief Clerk of the Public Service Commission (via Hand-Delivery)
John Hoefer, Esq., Palmetto Utilities, Inc. (via Hand-Delivery)
Jeffrey Nelson, Esq., SC Office of Regulatory Staff (via Hand-Delivery)
George Sensor, Sensor Enterprises, Inc. (via U.S. Mail)
Chris Valdes, J-Ray, Inc. (via U.S. Mail)

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

PSC Docket No. 2013-42-S

Sensor Enterprises, Inc. and J-Ray, Inc.....Appellants

v.

Palmetto Utilities, Incorporated and
South Carolina Office of Regulatory Staff..... Respondents

NOTICE OF APPEAL

Sensor Enterprises, Inc. and J-Ray, Inc. appeal two decisions of the South Carolina Public Service Commission. The first decision appealed is the Order Granting Adjustment to Rates and Charges, dated September 17, 2013. The second decision appealed is the Public Service Commission of South Carolina Commission Directive, dated October 23, 2013, denying the Petition for Rehearing and/or Reconsideration of Sensor Enterprises, Inc. and J-Ray, Inc. Copies of the decisions appealed from are attached hereto.

RECEIVED
2013 NOV 22 PM 4:20
SC PUBLIC SERVICE COMMISSION

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November 22, 2013

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THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM THE SOUTH CAROLINA PUBLIC SERVICE COMMISSION

PSC Docket No. 2013-42-S

Sensor Enterprises, Inc. and J-Ray, Inc.....Appellants

v.

Palmetto Utilities, Incorporated and
South Carolina Office of Regulatory Staff..... Respondents

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the following by causing a copy to be hand-delivered on the parties on November 22, 2013, at the addresses shown below:

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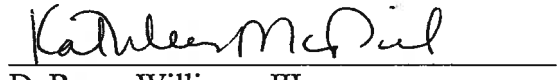

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ATTORNEYS FOR APPELLANTS

November 22, 2013
Columbia, South Carolina

Action Item 11

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE

ADMINISTRATIVE MATTER	☐	DATE	**October 23, 2013**
MOTOR CARRIER MATTER	☐	DOCKET NO.	**2013-42-S**
UTILITIES MATTER	☑	ORDER NO.	**2013-771**

THIS DIRECTIVE SHALL SERVE AS THE COMMISSION'S ORDER ON THIS ISSUE.

SUBJECT:
DOCKET NO. 2013-42-S - Application of Palmetto Utilities, Incorporated for Adjustment of Rates and Charges for Sewer Service – Discuss with the Commission the Petition for Rehearing and/or Reconsideration Filed on Behalf of Sensor Enterprises, Incorporated and J-Ray, Incorporated.

COMMISSION ACTION:
Having presented no evidence of error in Commission Order No. 2013-660, I move that the Commission deny the Petition for Rehearing and/or Reconsideration filed by Sensor Enterprises, Inc. and J-Ray, Inc.

PRESIDING: Hamilton

SESSION: Regular

TIME: 2:00 p.m.

	MOTION	YES	NO	OTHER
FLEMING	☐	☑	☐	
HALL	☐	☑	☐	
HAMILTON	☐	☑	☐	
HOWARD	☐	☑	☐	
RANDALL	☑	☑	☐	
WHITFIELD	☐	☑	☐	
VACANT	☐	☐	☐	

(SEAL)

RECORDED BY: J. Schmieding

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2013-42-S - ORDER NO. 2013-660

SEPTEMBER 17, 2013

IN RE: Application of Palmetto Utilities, Inc. for Adjustment of Rates and Charges for Sewer Service	)))	ORDER GRANTING ADJUSTMENT TO RATES AND CHARGES

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the "Commission") on the Application of Palmetto Utilities, Inc., ("PUI" or "the Company") for an increase in rates and charges for the provision of sewer service and the modification of certain terms and conditions related to the provision of such service. The Application was filed on March 13, 2013, pursuant to S.C. Code Ann. § 58-5-240 (Supp. 2012) and 10 S.C. Code Ann. Regs. 103-512.4.A and 103-503 (2012) with a test year ending September 30, 2012.

By letter dated March 21, 2013, the Commission's Clerk's Office instructed PUI to publish a prepared Notice of Filing and Hearing, one time, in newspapers of general circulation in the area affected by PUI's Application. The Notice of Filing and Hearing described the nature of the Application, included a comparison of current and proposed rates for both residential and commercial customers, and advised all interested persons desiring to participate in the proceedings and hearing, scheduled for July 17, 2013, of the

manner and time in which to file appropriate pleadings for inclusion in the proceedings as a party of record. In the same letter, the Commission also instructed PUI to notify directly, by U.S. Mail, each customer affected by the Application by mailing each customer a copy of the Notice of Filing and Hearing. The Company filed an Affidavit of Publication demonstrating that the Notice of Filing and Hearing had been duly published and provided a letter certifying that it had complied with the instructions of the Commission's Clerk's Office.

As reflected in the Notice of Filing and Hearing, the Company proposed new monthly sewer service rates of $39.00 for residential customers and $39.00 per single family equivalent ("SFE") as a minimum for commercial customers. By its Application, the rate sought by the Company would permit it the opportunity to earn an additional $1,471,758 in annual revenues.

Sensor Enterprises, Inc. d/b/a McDonalds and J-Ray, Inc., both of which operate McDonalds restaurants in the Company's service area, filed petitions to intervene in this matter. No other petition to intervene was filed in this case in response to the Notice of Filing and Hearing. Pursuant to S.C. Code Ann. § 58-4-10(B) (Supp. 2012), the South Carolina Office of Regulatory Staff ("ORS") is a party of record in this proceeding.

On July 1, 2013, PUI and ORS (the "Settling Parties") filed a Settlement Agreement pursuant to this Commission's Settlement Policies and Procedures, as revised June 13, 2006. The Settling Parties represented to the Commission that they had negotiated a resolution to the issues presented in this case and determined that their interests would best be served by settling under the terms and conditions set forth in the

Settlement Agreement (the "Settlement Agreement"), which is attached hereto as Order Exhibit 1. ORS stated in the Settlement Agreement that the settlement serves the public interest, preserves the financial integrity of the Company, and promotes economic development within the State of South Carolina.

The Settlement Agreement states that the Settling Parties view the terms thereof, which provide for *inter alia* a monthly residential service rate of $36.00, a minimum commercial rate of $36.00 per SFE, additional annual revenues of $609,897, a resulting operating margin of 18.06%, and certain modifications and additions to the Company's rate schedule to be just and reasonable. Most pertinent to the sole disputed issue among the parties in this case, the Settlement Agreement also provides for a modification of the single family equivalency factors for fast-food restaurants serving drive-thru customers by reducing the number of gallons of wastewater attributable to cars served by such restaurants under 6 S.C. Code Ann. Regs. 61-67, Appendix A, Section FF.3 (2012), from forty (40) gallons to ten (10) gallons.[1]

II. TESTIMONY OF THE SETTLING PARTIES, INTERVENORS, AND PUBLIC WITNESSES

A public hearing was held in the offices of the Commission on August 13, 2013, beginning at 10:30 a.m., to receive testimony from the Settling Parties, the Intervenors,

[1] As explained further herein below, PUI's current and proposed rate schedules incorporate by reference the Unit Contributory Loading Guidelines contained in Appendix A to R. 61-67, which guidelines form the basis for the approved PUI rate design.

and any public witnesses.[2] The Honorable G. O'Neal Hamilton, Chairman of the Commission, presided. PUI was represented by John M.S. Hoefer, Esquire. ORS was represented by Jeffrey M. Nelson, Esquire. The Intervenors were represented by D. Reece Williams, III, Esquire, and Kathleen M. McDaniel, Esquire.

At the beginning of the hearing, the Commission received and accepted into the record the Settlement Agreement as Hearing Exhibit 1 without objection. Under the terms of the Settlement Agreement, the pre-filed direct testimonies (and, where applicable, exhibits) of PUI witnesses Fred (Rick) Melcher, III, Manager of Public Relations for Ni America Operating LLC (a subsidiary of PUI's indirect parent, Ni America Capital Management LLC), R. Stanley Jones, P.E., South Carolina President for Ni America Operating LLC, Marion F. Sadler, Jr., of Sadler Environmental Assistance, Edward R. Wallace, Sr., CPA, President and CEO of Ni America Capital Management, LLC, and Donald J. Clayton, Vice President of Management Consulting for Tangibl, LLC.[3] In addition, the pre-filed direct testimonies and exhibits of ORS witnesses Ivana C. Gearheart, an Auditor employed by ORS, and Willie J. Morgan, Program Manager for Water and Wastewater for ORS, which supported the settlement, were stipulated into the record.

Two public witnesses testified in opposition to the Application and the Settlement Agreement. Ms. Lula Camp testified that she is a customer of the Company and is a

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[2] The hearing was continued from its original date of July 17, 2013, by virtue of a Commission Standing Hearing Officer Directive issued June 10, 2013.

[3] With the consent of all parties, Mr. Clayton's verified testimony was stipulated into the record for purposes of the hearing in this matter, and Mr. Wallace was made available to answer any questions regarding Mr. Clayton's testimony.

retired school teacher residing alone in her home. Ms. Camp objected to the continued use of a flat rate sewer charge for residential customers on the ground that it requires her to pay the same amount as a residential customer whose premises are occupied by a family of five people. Ms. Camp noted that she uses a well for irrigation. Ms. Camp submitted her protest letter as a hearing exhibit, in which she also objected to the amount of the initial proposed increase in the residential rate of 18.19%.

Mr. Larry Sharpe testified that he is the owner of four different businesses in PUI service area, specifically an Exxon service station, a BP service station with a Bojangles restaurant, a Carolina Wings restaurant, and a Subway restaurant. Mr. Sharpe stated that his bills have recently increased from approximately $300 per month to $2,000 per month.[4] Mr. Sharpe further stated that between 60% and 70% of his customers pay for gas at the pump and drive away without entering his retail premises. Mr. Sharpe also stated that, because his sewer charges were increasing "exponentially", he needed relief from the proposed rate increase.

All of the witnesses for the Company, with the exception of Mr. Clayton, were sworn in, had their pre-filed direct testimonies accepted into the record, presented summaries of their testimonies, and were made available for cross-examination by the parties and examination by the Commission. Mr. Jones testified that the Company had added approximately $5.4 Million in capital improvements since its last rate relief

[4] This increase is discussed in further detail below. For the sake of clarity, however, the Commission notes here that the increase to which Mr. Sharpe refers resulted from the Company's determination that it had not been charging the correct number of SFEs on Mr. Sharpe's four customer accounts and not from an increase in the approved monthly rate, which is currently $33.00 per SFE.

proceeding, including approximately $1.2 Million in improvements to the Spears Creek Wastewater Treatment Plant which the Company owns and operates. Mr. Jones noted that the Company's operating expenses had increased by $920,000 since its last rate case, a portion of which he attributed to greater focus on efforts to prevent and address the introduction of grease into the Company's system. In this regard, Mr. Jones stated that the Company had hired a full time employee whose function is the monitoring of commercial restaurant grease traps and retained a new third party operations contractor that had been tasked with increasing the Company's efforts to address grease in the system. Mr. Jones stated that the Company had operated in compliance with its DHEC permits and had been cited for no major violations and had been assessed no fines by DHEC since its last rate relief proceeding. Under examination from the Commission, Mr. Jones stated that the number of SFEs attributed to fast food restaurants, prior to the Company's undertaking a study of commercial customer accounts described in the testimony of Company witness Melcher, had been based upon equivalency factor information (e.g., the number of cars served or seats provided) that had been supplied by these types of commercial customers at the time the account was established.

According to Mr. Clayton's verified testimony, the Company had incurred approximately $5,470,131 in capital expenditures since the test year in its previous rate case, that its expenses had increased from the $5,550,661 approved in its last rate case to $6,470,349 at the end of the current test year, and that an increase in current rates would generate additional revenues which would allow PUI to adequately fund its operations,

attract capital, comply with regulatory requirements, and continue to provide excellent sewer service to customers.

Mr. Wallace testified that, as a result of the acquisition of 11,000 new utility customers by the Company's sister subsidiary, which is a jurisdictional utility, Palmetto of Richland County LLC, the corporate overhead expenses of Ni America Capital Management LLC that are allocated to the Company's customers had been reduced by $495,000, or 27%, from what it would otherwise would have been. Mr. Wallace stated that the Company's proposed Section 8 of its rate schedule, pertaining to satellite systems, was identical to that approved by the Commission for Palmetto Wastewater Reclamation LLC d/b/a Alpine Utilities.

According to Mr. Wallace, this modification to the rate schedule is necessary to prevent the circumstance where repairs, replacement or maintenance of the Company's own facilities became ineffective as a result of improperly maintained or operated satellite systems owned by third parties that are connected to the Company system. As an example, he cited excessive inflow and infiltration in un-maintained satellite system lines, which increase the volume of flow that is required to be transported, treated and disposed of by the Company and increased sanitary sewer overflows ("SSOs"). Mr. Wallace also noted the addition of a new third party operator by the Company for operations and billing functions and stated that the increases in capital and operational expenditures justified the granting of rate relief.

Mr. Sadler testified regarding the advent of wastewater treatment facility design loading guidelines by the former South Carolina Pollution Control Authority based upon

both five-day average biochemical oxygen demands (BODs) and maximum hydraulic flows, the subsequent adoption of these guidelines by DHEC, the subsequent modification of these guidelines to eliminate BODs as a component, and the eventual assimilation of the guidelines into 6 S.C. Code Ann. Regs. 61-67 (2012) as Appendix A thereto. Mr. Sadler noted that these guidelines are not only used by DHEC for wastewater facilities design guidance purposes, but also to track "permitted flow" to ensure that proposed development projects to be connected to a sewer system would have adequate service capacity available to serve them. Mr. Sadler noted that the DHEC guidelines under R. 61-67 Appendix A had been adopted by the Company in its currently approved rate schedule to set equivalencies between residential and commercial customers.

Company witness Rick Melcher testified regarding the effort of PUI to update commercial customer single family equivalencies (SFEs) under its current rate schedule in advance of this rate relief proceeding, communicate the results of that effort to affected commercial customers, and to address with all customers the Company's need for rate relief and greater emphasis on grease issues in "Town Hall" meetings held prior to the filing of the rate relief application. With respect to the updating of SFEs, Mr. Melcher testified that the Company felt it appropriate to undertake a study of commercial customer accounts to ensure that the correct number of SFEs were being billed in light of concerns raised by ORS in that regard in the Company's last rate case and in other rate relief proceedings involving other jurisdictional utilities. Mr. Melcher stated that Company representatives visited these customers' premises to ascertain the type and

number of equivalency factors[5] and, in some instances, found that adjustments to commercial customer bills were appropriate. According to Mr. Melcher, the results of the Company's study of SFEs – including the effect of any change in the number of SFEs on the monthly charges for sewer service – were communicated to affected customers by way of a letter mailed on March 5, 2013.

The testimonies of Mr. Mike Pippin on behalf of Sensor, Mr. Robert Christopher Valdes on behalf of J-Ray, and Mr. David F. Russell on behalf of both Intervenors, were presented by the Intervenors. These three witnesses were also made available for cross-examination and examination by the Commission. Mr. Pippin and Mr. Valdes both challenged the Company's proposal to charge for sewer service on the basis of R. 61-67 Appendix A and the Company's assumptions with respect to the number of cars served by their respective drive-thru facilities and the number of seats situated within their restaurants. Both of these witnesses also asserted that the number of gallons of wastewater assumed to be discharged under Appendix A to R. 61-67 on a monthly basis was many times greater than their actual monthly water consumption as reflected in their bills from the municipal water providers. Messrs. Pippin and Valdes each further stated that the use of the equivalencies derived from R. 61-67 Appendix A would cause

[5] The equivalency factors described by Mr. Melcher are the same as the loading factors set out in R. 61-67, Appendix A. As an example, the number of seats in a restaurant is an equivalency factor. As explained in Mr. Sadler's testimony, the ratio of the total of all loading factors for a commercial customer expressed in gallons to 400 gallons per day – the loading for a single family residence – produces the equivalency rating for a given commercial customer. The monthly service charge is then multiplied by that rating to determine the amount of a commercial customer's bill. As noted above, all commercial customers pay based upon a minimum of one (1) SFE.

shocking increases in their monthly bills.[6] These witnesses requested that they be charged based upon "actual water usage" and asserted that this was appropriate because Section 12 of the Company's current rate schedule allows PUI to obtain customer water consumption records where it suspects wastewater discharges exceed the design flows or loadings and "increase its charge based upon actual water usage." Neither of these witnesses, however, suggested a rate to be charged to themselves and similarly situated commercial customers based upon "actual water usage" or demonstrated what impact such a rate would have upon the rate design for residential and other commercial customers served by PUI.

Mr. Russell contended that the use of single family equivalents to calculate the Intervenors' monthly charges for sewer service using R. 61-67 Appendix A would result in "charges that are excessive, inequitable, and disproportionate to the cost of providing service." He asserted that the DHEC guidelines contained in R. 61-67 Appendix A, although perhaps appropriate for determining the bills of some customers, should not be used to determine the bills of the Intervenors because (1) they are design guidelines for wastewater facilities and do not estimate average wastewater discharge of customers, (2) the loading factors contained in the guidelines are estimates of peak flow or maximum daily contributions per unit measure and do not represent average or typical use, (3) the guidelines are over forty (40) years old and therefore are outdated, and (4) a more

[6] According to Mr. Pippin, the Sensor monthly bill would increase from $401.52 per month to $5,266.80 per month. Mr. Valdes testified that the J-Ray monthly bill would increase from $806.86 to $5,065.50 per month. However, as reflected in the exhibits to Mr. Melcher's testimony, both Sensor and J-Ray were sent letters by the Company in advance of the instant rate filing detailing the effect upon their bills of a recalculation of SFEs resulting from the Company's study of commercial accounts.

accurate billing method, specifically billing for wastewater used based upon water consumption, is available.

In regard to the last of these propositions, Mr. Russell asserted that, assuming the strength of flow (i.e., pollutant levels) from customers are the same and that metered water consumption data "is available at a reasonable cost," the "best way to determine the relative costs of serving customers is to measure the amount of wastewater each contributes to the collection system." He proposed that this measurement be based upon metered water consumption because "the percentage of water returned as wastewater is very high (on the order of 90% plus), and for those customers that don't return a large percentage, other means are available to measure or estimate the amount that is not returned to the collection system." According to Mr. Russell, the Intervenors' average monthly water usage is far below the wastewater discharge attributable to them under the DHEC guidelines, and thus results in the Intervenors being "grossly overcharged for their sewer service."

Mr. Russell further concluded that use of the DHEC guidelines in determining the rates applicable to the Intervenors results in charges that "are not remotely related to the cost of providing service to them" and which are "inequitable and unreasonable." Like Mr. Pippin and Mr. Valdes, Mr. Russell construed section 12 of the Company's current rate schedule to permit PUI to increase billings simply where it can show increased water consumption on the part of a customer and that customers who can demonstrate decreased water consumption should therefore be able to have their billings decreased. Finally, Mr. Russell recommended that, if water consumption data "is not obtainable at a

reasonable cost" and the use of SFEs to charge for monthly sewer service is approved by the Commission, the equivalency factors for cars served and seats provided by fast-food restaurants should be reduced to two (2) gallons and ten (10) gallons, respectively. According to Mr. Russell, these "revised estimates" of the gallons of wastewater discharged by the Intervenors per car and per seat are more indicative of the amount of water consumed by them.

Mr. Russell did not, however, propose a specific rate to be charged to the Intervenors or other customers. Nor did he address the effect of his recommended alternative rate design based on water consumption or his proposed modified calculation of per car and per seat equivalency factors on the distribution of the Company's revenue requirement among all customers.

Ms. Gearheart testified that, as part of a comprehensive settlement of all issues in this matter, PUI had agreed to certain accounting adjustments by ORS which, at the agreed upon monthly rates of $36.00 for residential customers and $36.00 (minimum) per single family equivalent for commercial customers, would allow the Company the opportunity to earn an additional $609,897 in annual revenue.[7] According to Ms. Gearheart, the agreed upon monthly rates result in an operating margin of 18.06%. Ms. Gearheart explained that, upon examining the books and records of the Company, ORS proposed and PUI accepted thirty three (33) accounting and pro forma adjustments

[7] As is discussed in greater detail below, a key component of the Settlement Agreement is a modification to the Company's rate schedule which would reduce the single family equivalency rating factors for fast food restaurants serving customers through drive-thru facilities from the forty (40) gallons per car design guideline promulgated by DHEC to ten (10) gallons per car. The agreed upon additional annual revenue reflects this component of the Settlement Agreement.

necessary to normalize the results of PUI's test year operations. ORS proposed adjustments to remove non-allowable, non-recurring, non-regulatory and outside the test year expenses, as well as removing a portion of the allocated overhead proposed by the Company. The net effect of the proposed adjustments was a reduction in the Company's pro forma proposed operating expenses in the amount of $550,402, which was accepted by PUI as part of the Settlement Agreement, and an as-adjusted test year operating margin of 14.25%.

Ms. Gearheart further noted that ORS had examined the Company's rate case expenses incurred between July 1, 2013, (the date of the Settlement Agreement) and August 7, 2013, which resulted in a further adjustment to rate case expense of $2,730 based on a three-year amortization. Ms. Gearheart also testified that ORS was willing to recognize the Company's properly documented rate case expenses incurred from August 8, 2013, through the submission of proposed orders by the parties, which were due on August 26, 2013, and to submit those additional rate case expenses to the Commission for consideration by way of an affidavit she would provide. Ms. Gearheart testified that recognition of additional rate case expenses incurred by the Company would not be used to increase the amount of additional annual revenue agreed to by the Settling Parties, but would have the effect of reducing the resulting operating margin.[8]

[8] Subsequent to the hearing in this matter, ORS submitted an affidavit from Ms. Gearheart in which she states that the Company incurred an additional amount of rate case expense, amortized over a three-year period, of $9,600, which ORS is willing to accept for purposes of this case, subject to the agreed additional annual revenue reflected in the Settlement Agreement remaining unchanged. According to Ms. Gearheart's affidavit, the effect of recognizing this additional rate case expense for that limited purpose is to reduce the operating margin resulting from the Settlement Agreement to 17.98%.

In support of the Settlement Agreement, Mr. Morgan testified that PUI is a NARUC Class A wastewater utility providing sewer service in portions of Kershaw and Richland counties. According to information contained in the Company's Application, wastewater collection and treatment services were provided to 11,601 residential customers and 550 commercial customer accounts during the test year. Mr. Morgan testified that as part of ORS's Business Office Compliance Review, ORS found that PUI was in compliance with Commission rules and regulations. He stated that ORS's system facilities inspection revealed that PUI was in apparent compliance with Department of Health and Environmental Control and federal environmental requirements applicable to the operation of its wastewater collection and treatment system and had received a "satisfactory" rating in DHEC's last compliance rating. ORS made adjustments to the Company's per books operating revenue in the amount of $183,308 according to Mr. Morgan, which included applying the current Commission-approved rates to all commercial customers, several of which had been under-billed by the Company. With these adjustments, ORS calculated PUI's test year service revenue for residential and commercial sewer operations, as adjusted to be $6,653,592. Mr. Morgan stated that the rates and charges resulting from the Settlement Agreement are fair and reasonable to both the Company and its customers and are, in ORS's view, warranted in light of the Company's good record of operational performance, high quality of service, and proactive approach in dealing with regulators, customers and system maintenance issues.

The Company presented the pre-filed rebuttal testimonies of Mr. Melcher, Mr. Wallace and Gary E. Walsh in response to the testimonies of the Intervenor witnesses and

in support of the Settlement Agreement. These witnesses provided summaries of their rebuttal testimonies and were made available for cross-examination and examination by the Commission.

In rebuttal, Mr. Melcher testified that the Company had employed the single family equivalency rating system in its rate design since 1979 and was therefore not proposing to apply it to commercial customers, including the Intervenors, for the first time. He stated that the Company had determined in its SFE study that it had been under-billing the Intervenors due to an incorrect count of seats provided and cars served by the Intervenors and that its proposed modification to the number of seats provided and cars served by the Intervenors was based upon site inspections, information provided by Sensor, and the recommendation of ORS that a peaking factor of 20% be applied when car counts are based upon averages.

In view of this information, Mr. Melcher stated the Company had determined that the number of cars attributable to Sensor and J-Ray was 1,225 and 1,635, respectively, and the number of seats attributable to them was 113 and 79, respectively. Mr. Melcher disagreed with the Intervenor witnesses' characterization of Section 12 of the Company's current rate schedule as providing for increased charges for monthly service based upon water consumption and noted that this provision was a tool for the utility to use when it suspected that a customer's wastewater discharge exceeded the design flow guidelines under R. 61-67 Appendix A. Mr. Melcher stated that the Settlement Agreement proposal to reduce the number of gallons attributable to cars served in a drive-thru facility from forty (40) to ten (10) gallons per vehicle was a reflection of the Company's recognition

that the current equivalency factor for cars served by a fast food restaurant resulted in unreasonable charges to Sensor and J-Ray. He indicated that this proposed reduction, based upon a formula that takes into account both water consumption and wastewater discharge, would result in reasonable charges to the Intervenors. Mr. Melcher further noted that the Intervenors had not stated what charge would apply to them or other customers if their proposal to be billed based upon water consumption was adopted.

Mr. Melcher also took issue with the alternative proposal by Mr. Russell that the number of gallons attributable to cars served in the Intervenors' drive-thru facilities be reduced from forty (40) to two (2) gallons and that the number of gallons attributable to seats provided in the Intervenors' restaurants be reduced from forty (40) to ten (10) gallons per seat for purposes of determining the number of SFEs attributable to the Intervenors. Mr. Melcher observed that the result of doing so would be monthly charges below that which the Intervenors currently pay and would not be reasonable in view of the Company's increased expenses and investments since its last rate relief proceeding.

Mr. Melcher further observed that the terms of the proposed Settlement Agreement would, if adopted, result in monthly bills to Sensor and J-Ray of $1,509.30 and $1,755.72, respectively. Mr. Melcher asserted that these charges would be reasonable in view of the Company's undisputed need for rate relief and employment of the current rate design with a single modification which addresses the impact of car counts on the SFE ratings of all fast food restaurants with drive-through facilities – and not just those owned by the Intervenors. Mr. Melchers asserted that the Settlement

Agreement produces rates and a rate design which fairly distributes the cost of providing service among all customers.

Mr. Wallace's rebuttal testimony focused upon the rate design recommendations of Mr. Russell on behalf of the Intervenors. Acknowledging that rate design is a matter within the discretion of the Commission, Mr. Wallace stated that the current rate design, modified only to reduce from forty (40) to ten (10) the number of gallons attributable to cars served by fast-food restaurant drive-thru facilities, should be retained as it is the most reasonable means of distributing the Company's cost of providing service among all customers. Echoing Mr. Melcher's testimony, Mr. Wallace recognized that this modification was required to prevent unreasonable charges to fast-food restaurants with drive-thru facilities and asserted that the reduction from forty (40) to ten (10) gallons per car, as provided for in the Settlement Agreement, was reasonable.

Mr. Wallace stated that he developed a formula to determine an appropriate number of gallons to be assigned per car, which took into account both water consumption by fast-food restaurants and wastewater discharge at the Company's Spears Creek Wastewater Treatment Plant, as well as an adjustment of 20% to address peak flow demands. Mr. Wallace requested that the Commission reject the alternative rate design based on water consumption alone and the more extensive modifications to the current rate design proposed by Mr. Russell. As to the former, Mr. Wallace contended that the absence of a variable to account for strength of flow and a means of obtaining metered water consumption information rendered the proposed new rate design infeasible.

As to the latter, Mr. Wallace submitted that a greater reduction in gallons attributable to cars and seats for purposes of calculating the SFEs of the Intervenors was not factually or quantitatively supported. Under cross examination by ORS, Mr. Wallace explained the inputs to his formula that were used to calculate the ten (10) gallons per car equivalency factor proposed in the Settlement Agreement. Included in these inputs, according to Mr. Wallace, was water consumption data for fast-food restaurants with drive-thru facilities obtained by the Company from (1) Sensor in its response to the Company's March 5, 2013, letter, (2) similar entities served by Palmetto of Richland County LLC, whose charges are based upon metered water consumption provided by the City of Columbia as part of the contract approved by the Commission in Order No. 2012-960 in Docket No. 2012-273-S, and (3) similar commercial customers served by Palmetto Wastewater Reclamation LLC, which provided such data in connection with the investigation conducted by ORS in Docket No. 2012-94-S as a result of Commission Order No. 2013-193. A copy of the calculation described by Mr. Wallace was admitted into the record as Hearing Exhibit No. 3.

Mr. Walsh's rebuttal testimony took further issue with the recommendations made by Mr. Russell on behalf of the Intervenors. Mr. Walsh noted that the recommendation that the Intervenors be billed based upon water consumption alone failed to address the strength of flow of the Intervenors' wastewater discharge and the cost of obtaining such consumption data. Chief among Mr. Walsh's criticism of the alternative position advanced by this witness for the Intervenors (i.e., greater reductions in the number of gallons assigned to cars and seats) was the failure to recognize that the

DHEC guidelines are not intended to replicate any type of sewer customer's actual discharge to a wastewater system, but are simply maximum design guidelines which are used as a means to distribute a sewer utility's revenue requirement among its various customers. Accordingly, Mr. Walsh observed, other customers could also make the case that their actual discharge of water was less than the peak capacity flows under the DHEC guidelines.

Mr. Walsh further noted that the analysis employed by Mr. Russell to support his contention failed to address the wastewater discharge resulting from cleaning of cooking equipment, utensils and kitchen floor areas with commercial grade detergents, which the Intervenors routinely utilize. Finally, Mr. Walsh noted that the proposal in the Settlement Agreement to reduce from forty (40) to ten (10) the number of gallons assigned per car served in drive-thru facilities was quantitatively supported by virtue of Mr. Wallace's formula and calculation, whereas Mr. Russell's alternative proposal was not so supported. Mr. Walsh, too, recognized that rate design is a matter for the Commission and submitted that any rate design adopted by the Commission should allow the Company to recover its revenue requirement.

No surrebuttal testimony was presented by the Intervenors.[9]

[9] As noted above, subsequent to the hearing in this matter ORS submitted for the Commission's consideration the affidavit of Ms. Gearheart recognizing an adjustment to the Company's total rate case expense which has the effect of reducing the operating margin resulting from the rates and additional revenue proposed for adoption in the Settlement Agreement from 18.06% to 17.98%.

III. FINDINGS OF FACT

Based upon the Application, the Settlement Agreement, the testimony and exhibits received into evidence at the hearing, and the entire record of these proceedings, the Commission makes the following findings of fact:

1. By statute, the Commission is vested with jurisdiction to supervise and regulate the rates and service of every public utility in this state, together with the duty, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by every public utility in this State. S.C. Code Ann. § 58-5-210 (1976). The Company is engaged in the business of providing wastewater collection and treatment services to the public for compensation in portions of Kershaw and Richland counties and is therefore a public utility subject to the Commission's jurisdiction.
2. The Company is lawfully before the Commission on an Application for rate relief and modifications to the terms and conditions of its services pursuant to S.C. Code Ann. § 58-5-240(A) (Supp. 2012) and 10 S.C. Code Ann. Regs. 103-503 and 103-512.4.A (2012).
3. The appropriate test year for use in this proceeding is October 1, 2011, to September 30, 2012.
4. The Company, by its Application, originally sought an increase in its annual sewer service revenues of $1,471,758 based upon a proposed monthly sewer service charge

of $39.00 for residential customers and $39.00 per single family equivalent (as a minimum) for commercial customers.

5. The Company submitted evidence in this case with respect to PUI's revenues and expenses using a test year consisting of the twelve (12) months ended September 30, 2012. The Settlement Agreement is based upon the same test year and reflects ORS's proposed adjustments to the test year revenue and expense figures submitted by PUI and a modification of the number of gallons of wastewater per vehicle attributable to cars served by fast-food restaurants with drive-through facilities under 6 S.C. Code Ann. Regs. 61-67 Appendix A Section FF.3 (2012), from forty (40) gallons per car served to ten (10) gallons per car served.

6. The Intervenors submitted no evidence with respect to PUI's test year revenues and expenses as proposed, the revenues and expenses as adjusted by ORS and resulting from the Settlement Agreement, or the revenues, expenses or resulting rates which would arise from adoption of the Intervenors' proposed alternative rate design requiring that monthly sewer service charges be based upon metered customer water consumption. Similarly, the Intervenors submitted no evidence of the effect on revenues, expenses or rates of their proposed reduction in the number of gallons of wastewater attributable to cars served by fast-food restaurants with drive-through facilities under R. 61-67 Appendix A Section FF.3, from forty (40) gallons per car served to two (2) gallons per car served or in the number of gallons of wastewater attributable to seats provided by fast-food restaurants under R. 61-67 Appendix A Section FF.1, from forty (40) gallons per seat to ten (10) gallons per seat.

7. The Settlement Agreement, resolving the issues in this proceeding between the Settling Parties, was filed by ORS on July 1, 2013.[10]

8. The Settlement Agreement provides for an increase in revenue, after accounting and pro forma adjustments, of $609,897, based upon a proposed monthly sewer service charge of $36.00 for residential customers and $36.00 per single family equivalent (as a minimum) for commercial customers. This results in an operating margin of 18.06%. After taking into account the additional rate case expenses verified by ORS subsequent to the hearing in this matter, the additional revenue provided for in the Settlement Agreement results in an operating margin of 17.98%.

9. After careful review and consideration by this Commission of the Settlement Agreement, the evidence contained in the record of this case, including the testimony of the witnesses and the hearing exhibits, the Commission finds and concludes that the Settlement Agreement results in just and reasonable rates and charges for the provision of sewer service. Based on the operating revenues, income, and expenses agreed upon by the Settling Parties, the resulting allowable operating margin for the Company is 17.98%. See S.C. Code Ann. § 58-5-240(H) (Supp. 2012).

10. The Commission finds that PUI has invested approximately $5.4 Million in plant, equipment and facilities and that its expenses have increased by $534,682 since its last rate relief proceeding. The rates and charges reflected in the rate schedule agreed

[10] Although the intervenors are not signatories to the Settlement Agreement, as noted above, the Intervenors did not take issue with the monthly service rates proposed by the Settlement Agreement or dispute any of the expense and revenue figures, as adjusted, proposed by the Settling Parties. To the contrary, in their opening statement, the Intervenors conceded that the Company was entitled to rate relief.

to by the Parties in the Settlement Agreement, which rate schedule is hereby adopted and attached to this Order as a part of Order Exhibit No. 1, are just and reasonable, fairly distribute the costs of providing service as reflected in the Company's revenue requirement, and allow PUI to continue to provide its customers with adequate sewer service. We find that the rate schedule agreed to by the Settling Parties provides terms and conditions for sewer service that are also just and reasonable. Further, the agreed upon rates allow the Company an opportunity to earn a reasonable return on its investment. We therefore find that the proposed rates, charges, and terms and conditions of service contained in the rate schedule, included in Order Exhibit No. 1, are just and reasonable and are hereby approved in their entirety.

11. The Commission finds that the proposed modifications and additions to the terms and conditions of the Company's sewer service, specifically the language referring to the reduction from forty (40) to ten (10) of the number of gallons attributable to cars served by fast-food restaurants with drive thru facilities appearing in R. 61-67 Appendix A Section FF.3, and new Section 8 pertaining to Satellite Systems with corrected internal references to that section, all as set forth in Order Exhibit No.1, are appropriate, just and reasonable.

IV. EVIDENCE AND CONCLUSIONS

EVIDENCE FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW 1-3

The Company is a public utility subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. § 58-3-140(A) (Supp. 2012) and 58-5-210 (1976).

EVIDENCE FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW 4-11

The Commission last approved an increase in PUI's rates in Order No. 2011-617 issued September 14, 2011, in Docket No. 2011-24-S, which allowed an operating margin for the Company of 14.86% and utilized a test year for the twelve months ending April 30, 2010. On March 12, 2013, PUI filed its Application seeking an increase in annual revenues of $1,471,758. The Company and ORS submitted evidence in this case with respect to revenues and expenses using a test year for the twelve months ending September 30, 2012. The Settlement Agreement filed by the Settling Parties on July 1, 2013, is based upon the same test year and provides for an increase in annual service revenues of $609,897, which results in an operating margin of 17.98% based upon the Company's revenues and allowable expenses.

a) **Basis for Rate Relief**

Company witnesses Jones, Wallace, and Clayton each testified that the Company had experienced in excess of $900,000 worth of increases in its expenses and incurred $5.4 Million capital investment since its last rate relief proceeding. Although, as a result of the agreed upon adjustments between the Settling Parties, the increase in allowable expenses reflected in the affidavit of ORS witness Gearheart is less than initially asserted by the Company, the expenses have increased by approximately $534,682, and the Company is experiencing an operating margin which is less than that previously approved for it by this Commission. No testimony from the Intervenors or any public witness disputed the facts or figures described in the foregoing Company and ORS witness testimonies. The Intervenors conceded that the Company is entitled to rate relief.

b) Approved Rates and Resulting Operating Margin

Company witnesses Melcher, Wallace, and Walsh each asserted that the charges resulting from the terms of the Settlement Agreement were just and reasonable. In her testimony, ORS witness Gearheart stated that the rates agreed to by the Settling Parties in the Settlement Agreement generated an 18.06% operating margin, which is reduced to 17.98% when the additional rate case expenses reflected in her affidavit are included. ORS witness Morgan testified that the settlement rates were appropriate in view of the Company's performance. As noted above, no witness for the Intervenors challenged the Company's entitlement to rate relief or the monthly service rates arising out of the Settlement Agreement between the Company and ORS. Further, no witness for the Intervenors proposed a specific rate to be used in the recommended alternative rate design based upon water consumption.

c) Additions to and changes in the terms and conditions of service

The Company and ORS propose two changes in the PUI rate schedule: (1) the addition of a new Section 8 pertaining to Satellite Systems and associated modifications to internal and subsequent section references and (2) a modification to the language of current Section 12 to reflect that the number of gallons attributable to cars served by fast-food restaurants with drive-thru facilities, for purposes of determining the SFEs for commercial customers operating such restaurants, to provide for ten (10) gallons per car instead of the forty (40) gallons per car reflected in R. 61-67 Appendix A, Section FF.3. The effect of the modification to Section 12 is to reduce the equivalency rating per car served from 0.10 to 0.025 as noted in the testimony of Company witness Wallace.

As to the addition of a new Section 8, the testimonies of PUI witnesses Jones and Wallace reflect that the Company is in need of the ability to address circumstances where a satellite system is not being maintained in accordance with DHEC standards. According to these witnesses, this language is necessary in order to prevent excessive inflow and infiltration from satellite systems being discharged into the Company's system, protect the Company from having to bear costs associated with satellite system maintenance, and avoid the incidence of and cost associated with sanitary sewer overflows. No Intervenor witness or public witness commented on this matter, and the Commission notes that the proposed language of new Section 8 is consistent with rate schedule provisions approved by the Commission for use by PUI's sister subsidiary, Palmetto Wastewater Reclamation LLC d/b/a Alpine Utilities.

In regard to themodification to Section 12, the Commission notes specifically that Appendix A to DHEC regulation 61-67, in its current and prior forms, has been incorporated in the Company's rate schedule for nearly 24 years and in the rate schedules of nine other jurisdictional sewer utilities as reflected in the testimonies of Company witnesses Sadler and Walsh. Thus, contrary to suggestions otherwise, the Company is not seeking to utilize SFEs as a basis for a rate design for the first time.

d) Rate Design

The proper rate design for PUI is the only disputed issue presented by the parties in this proceeding. The Settlement Agreement contemplates that the current rate design featuring a flat monthly charge for sewer service per SFE, with a minimum commercial charge based upon one (1) SFE, be retained. While Messrs. Pippin, Valdes, and Russell

proposed either an alternative rate design based upon customers' metered water consumption or a modification to the current rate design which would further reduce the equivalency ratings for cars served and reduce the equivalency ratings for seats provided by the Intervenors' restaurants, none of these witnesses specified what rates should be used to generate the additional annual revenue found appropriate for the Company or how any additional costs arising from the alternative rate design (i.e., obtaining metered water consumption data) should be recovered.

Further, the Intervenors' alternative rate design proposal is not feasible. As noted above, PUI does not have access to water billing records or the right to meter flow from a City of Columbia water line or a Town of Winnsboro water line to affect the alternative rate design proposed by the Intervenors. Also, in order to implement this alternative rate design, the Company would be required to incur undetermined costs which would necessarily be passed on to the customer. The Intervenor witnesses offered no information with respect to the amount of these costs and, as noted above, no suggestion regarding the rates which would result.[11]

Although Ms. Camp stated her objection to the continuation of the current flat monthly sewer charge rate design on the ground that she discharges less wastewater than

[11] As also noted above, Mr. Russell recognized that the cost of obtaining metered water consumption data is an issue by making the assumption, for the purpose of his recommendation, that this data is available to the Company "at a reasonable cost." Again, no cost information in this regard was provided and insufficient evidence provided that the data could be obtained. The Commission recognizes, of course, that the Intervenors could provide their own water consumption data to the Company. However, we agree with Mr. Walsh that the norm is to set rates on a statewide system basis and not on a customer-by-customer basis. *Cf. August Kohn and Co., Inc. v. Public Service Commission*, 281 S.C. 28, 313 S.E.2d 630 (1984). We therefore reject the suggestion that the Intervenors' rates should be set individually as they have produced no evidence of special circumstances or conditions which would warrant treating the Intervenors differently from other customers in regard to rate design. *Id.*

do customers whose premises are occupied by several persons, she did not propose an alternative rate design. Moreover, even though Ms. Camp may be the only occupant in her premises, the Company is required to make capacity available in its system to serve her premises if more persons were to reside there. Further, and as noted by Company witness Walsh, some level of subsidization within a class of customers will always exist in any uniform rate design as differences in occupancy levels and usage patterns will inevitably exist between customers in a given class. As noted above, uniform rates are generally preferred, and the burden of establishing the reasonableness of a non-uniform rate design lies with those seeking it. *See August Kohn and Co., Inc. v. The Public Service Commission of South Carolina,* 281 S.C. 28, 313 S.E.2d 630 (1984). For the reasons discussed above, we conclude that this burden has not been met in the present case by the Intervenors or public witnesses.[12]

Rate design is a matter of discretion for the Commission. In establishing rates, it is incumbent upon us to fix rates which "distribute fairly the revenue requirements [of the utility.]" *See Seabrook Island Property Owners Association v. S.C. Public Service Comm'n*, 303 S.C. 493, 499, 401 S.E.2d 672, 675 (1991). Our determination of "fairness" with respect to the distribution of the Company's revenue requirement is subject to the requirement that it be based upon some objective and measurable framework. *See Utilities Services of South Carolina, Inc. v. South Carolina Office of*

[12] Mr. Sharpe did not request any specific relief with respect to the Company's rate design. Moreover, his testimony, like that of Messrs. Pippin and Valdes, fails to take into account that the increase in his charges prior to the approval of this rate increase results from the Company's SFE study and not an increase in rates and fails to propose a properly supported alternative rate design. Nonetheless, Mr. Sharpe is provided relief for his restaurant businesses to the extent they provide drive-thru service as a result of the Settlement Agreement in this matter.

Regulatory Staff, 392 S.C. 96, 113-114, 708 S.E.2d 755, 764-765 (2011). The Supreme Court has approved of our use of single family equivalents in the rate design for a sewer utility where the evidence supports it. *See Seabrook Island Property Owners Ass'n v. South Carolina Public Service Commission*, 303 S.C. 493, 401 S.E.2d 672 (1991). The current rate design providing for uniform, flat rates for residential customers meets this requirement in that it recognizes that even though residential wastewater flow can vary considerably by and among customers, there is no means by which these variances in demand may be readily and economically measured. Thus, spreading the cost associated with that service equally among all customers within the class based upon design guidelines projecting their relative maximum daily wastewater discharges – which is what R. 61-67 Appendix A sets forth – is both objective and measurable.

Similarly, the imposition of flat rates on commercial customers based upon equivalencies established under the DHEC guidelines found in Appendix A to R. 61-67 satisfies this requirement in that it treats similarly situated commercial customers uniformly, while recognizing that differences exist in the pollutant strength of wastewater and the volume of wastewater flow between commercial and residential customers. We decline to adopt the alternative rate design proposed by the Intervenors, as it is not based upon a measurable framework in view of the fact that the Company does not have access to metered water consumption data for its customers.

Similarly, we reject the Intervenors' proposal to modify the number of gallons associated with the seats provided and cars served by fast-food restaurants under R. 61-67 Appendix A, Section FF. 1 and 3. As to the gallons assigned to seats provided in a

restaurant, the Intervenors' proposal to reduce the number from forty (40) to ten (10) attributed to them under the DHEC Guidelines would accord to them an advantage over other fast-food restaurants, which would result in a discriminatory rate. Moreover, fast-food restaurants already receive a benefit in that the gallons per seat attributed to them under the DHEC guidelines are less than other restaurants. *Cf.* R.61-67, Appendix A, Section FF.2. As to the Intervenors' proposal that the gallons associated with cars served under the DHEC guidelines be reduced from forty (40) to two (2) per vehicle, the evidence presented by the Intervenors does not provide the objective and measurable framework required for rate design.[13]

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement, including attachments, is attached hereto as Order Exhibit 1, is incorporated into and made a part of this Order by reference.

2. The Settlement Agreement between the Parties is adopted by this Commission and is approved as it produces rates that are just and reasonable and in the public interest as well as authorizing a reasonable operating margin for the Company.

3. The rates imposed shall be those rates agreed upon in the Settlement Agreement between the Settling Parties as shown in Order Exhibit 1 and shall be effective for service rendered by the Company on and after the date of this Order.

[13] It is also noteworthy that no witness refuted the testimony of Company witness Melcher that the adoption of the Intervenors' proposal for a further reduction in the gallons attributable to cars served and a reduction in the gallons attributable to seats provided in their restaurants would result in monthly charges to them which are less than they currently pay to the Company – even under the proposed rate of $36 per SFE. This fact is evidence that the rate design proposals of the Intervenors would not fairly distribute the cost of providing service among all customers.

4. The additional revenues that the Company is entitled to the opportunity to earn results in an operating margin of 17.98%.

5. The Company's books and records shall continue to be maintained according to the NARUC Uniform System of Accounts.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

G. O'Neal Hamilton, Chairman

ATTEST:

Nikiya Hall, Vice Chairman

(SEAL)

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2013-42-S

July 1, 2013

IN RE: Application of Palmetto Utilities, Inc. for Adjustment of Rates and Charges for Sewer Service	)))	**SETTLEMENT AGREEMENT**

This Settlement Agreement is made by and between Palmetto Utilities, Inc. ("Palmetto" or the "Company") and the South Carolina Office of Regulatory Staff ("ORS"), whom may collectively be referred to as the "Parties" or sometimes individually as a "Party".

WHEREAS, on March 12, 2013, Palmetto filed an Application for the Adjustment of Rates and Charges (the "Application") requesting that the Commission approve the revised rates, charges, conditions, and terms of service in certain areas of Richland and Kershaw counties;

WHEREAS, the above-captioned proceeding has been established by the Public Service Commission of South Carolina (the "Commission") pursuant to the procedure established in S.C. Code Ann. § 58-5-240 (Supp. 2012) and 10 S.C. Code Ann. Regs. 103-512.4.B (2012);

WHEREAS, the Company provides sewer service to approximately 11,915 residential and 340 commercial account customers in Richland and Kershaw Counties, South Carolina;

WHEREAS, ORS has examined the books and records of the Company relative to the issues raised in the Application and has conducted financial, business, and site inspections of Palmetto and its wastewater collection and treatment facilities; and

Exhibit #1

WHEREAS, the Parties have engaged in discussions to determine whether a settlement in this proceeding would be in the best interests of the Company and the Intervenors and in the public interest;

NOW, THEREFORE, the Parties hereby stipulate and agree to the following terms, which, if adopted by the Commission in its Order addressing the merits of this proceeding, will result in rates and charges for sewer service which are adequate, just, reasonable, nondiscriminatory, and supported by the evidence of record of this proceeding, and which will allow the Company the opportunity to earn a reasonable operating margin.

1. The Parties stipulate and agree to the rate schedule attached hereto and incorporated herein by reference as Settlement Agreement Exhibit 1. As reflected therein, the Parties have agreed to a flat rate of $36.00 per month for residential sewer service and a minimum flat rate of $36.00 per month for each single-family equivalent ("SFE") for commercial service.

2. The Parties agree that a rate of $36.00 per month represents an increase of $3.00 per month from the current rate of $33.00 per month and is fair, just, and reasonable to customers of the Company's system while also providing the opportunity to earn a fair operating margin which produces additional revenue of $609,897.00. The Parties stipulate that the resultant operating margin is 18.06%.

3. The Parties further agree that Palmetto shall continue to utilize the South Carolina Department of Health and Environmental Control's ("DHEC") "Guidelines for Unit Contributory Loading for Domestic Wastewater Treatment Facilities" found at Appendix A to 6 S.C. Code Ann. Regs. 61-67 (2012) to determine the Single Family Equivalents ("SFEs") attributable to commercial customers as provided for in its current rate schedule with a single

modification. Specifically, restaurants with "drive-thru" facilities (such as those operated by Intervenors) are to have their number of SFE's determined based upon the number of cars which make purchases from such restaurants through a "drive-thru" window each day using an equivalency factor of ten (10) gallons per car, as opposed to the forty (40) gallons per car provided in the DHEC Guidelines which is the number of gallons as assigned to each seat in such restaurants. The Parties agree to this modification to the rate schedule in recognition of the fact that a meal purchased by a customer through a "drive-thru" window places less capacity demand upon Palmetto's system than does a customer dining at a seat in such restaurants.

4. Palmetto further agrees that it will not include take-out orders for restaurants whose SFEs are determined by reference to the number of seats under the DHEC Guidelines in its determination of SFEs for commercial customers.

5. The Parties agree that ORS shall have access to all books and records of this system and shall perform an examination of these books as necessary.

6. Palmetto agrees to continue to maintain its books and records in accordance with the National Association of Regulatory Utility Commissioners Uniform System of Accounts as required by the Commission's rules and regulations.

7. The Company agrees to file all necessary documents, bonds, reports and other instruments as required by applicable South Carolina statutes and regulations for the operation of a sewer system.

8. The Company agrees that this system is a "public utility" subject to the jurisdiction of the Commission as provided in S.C. Code Ann. § 58-5-10(4) (Supp. 2012). The Company agrees to maintain its current certificate of deposit in amount of Three Hundred and

Fifty Thousand ($350,000.00) Dollars in satisfaction of the requirements set forth in S.C. Code Ann. § 58-5-720 (Supp. 2012).

9. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution of the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission Order issued approving this Settlement Agreement and the terms and conditions contained herein.

10. The Parties agree to stipulate into the record the pre-filed direct and settlement testimonies and exhibits of Donald J. Clayton, Fred (Rick) Melcher, III, R. Stanley Jones, Marion F. Sadler, Jr., and Edward R. Wallace, Sr. on behalf of Palmetto, as well as the pre-filed direct testimony and Audit Exhibits ICG-1 through ICG-4 of ORS witness Ivana C. Gearheart and the pre-filed direct testimony and Exhibits WJM-1 through WJM-6 of ORS witness Willie J. Morgan in support of this Settlement Agreement.

11. ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code Ann. § 58-4-10(B) (Supp. 2012). S.C. Code § 58-4-10(B)(1) through (3) reads in part as follows:

> . . . 'public interest' means a balancing of the following:
> (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
> (2) economic development and job attraction and retention in South Carolina; and
> (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the agreement reached between the Parties serves the public interest as defined above. The terms of this Settlement Agreement balance the concerns of the using public

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while preserving the financial integrity of the Company. ORS also believes the Settlement Agreement promotes economic development within the State of South Carolina. The Parties stipulate and agree to these findings.

12. The Parties agree that by signing this Settlement Agreement, it will not constrain, inhibit or impair in any way their arguments or positions they may choose to make in future Commission proceedings. If the Commission should decline to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement without penalty.

13. This Settlement Agreement shall be interpreted according to South Carolina law.

14. Each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of this Settlement Agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

15. The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party.

[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

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Palmetto Utilities, Inc.
Docket No. 2013-42-S
Current and Proposed Sewer Rate Schedule

SETTLEMENT AGREEMENT
EXHIBIT 1

SEWER RATE SCHEDULE

1. **MONTHLY CHARGE**

	Current	Proposed Application	Proposed Settlement
a. Residential – Monthly charger per single family house, condominium, villa or apartment unit	$33.00	$39.00	$36.00
b. Commercial – Monthly charge per single family equivalent	$33.00	$39.00	$36.00

c. The monthly charges listed above are minimum charges and shall apply even if the equivalency rating is less than one (1). If the equivalency rating is greater than one (1), then the monthly charges may be calculated by multiplying the equivalency rating by the monthly charge.

Commercial customers are those not included in the residential category above and include, but are not limited to, hotels, stores, restaurants, offices, industry, etc.

The Utility may, for the convenience of the owner, bill a tenant in a multi-unit building, consisting of four or more residential units which is served by a master sewer meter or a single sewer connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant or before interrupted service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.

2. **NONRECURRING CHARGES**

a. Sewer service connection charge per single-family equivalent	$250.00
b. Plant Impact fee per single-family equivalent	$800.00

c. The nonrecurring charges listed above are minimum charges and apply even if the equivalency rating is less than one (1). If the equivalency rating is greater than one (1), then the proper charge may be obtained by multiplying the equivalency rating by the appropriate fee. These charges apply are due at the time new service is applied for, or at the time connection to the sewer system is requested.

3. BULK TREATMENT SERVICES

The utility will provide bulk treatment services to Richland County ("County") upon request by the county. The rates for such bulk treatment services shall be as set forth above for both monthly charges and nonrecurring charges per single-family equivalent. The County shall certify to the Utility the number of units or taps (residential and commercial) which discharge wastewater into the County's collection system and shall provide all other information required by the Utility in order that the Utility may accurately determine the proper charges to be made to the County. The County shall insure that all commercial customers comply with the Utility's toxic and pretreatment effluent guidelines and refrain from discharging any toxic or hazardous materials or substances into the collection system. The County will maintain the authority to interrupt service immediately where customers violate the Utility's toxic or pretreatment effluent standards of discharge prohibited wastes into the sewer system. The Utility shall have the unfettered right to interrupt bulk service to the County if it determines that forbidden wastes are being or are about to be discharged into the Utility's sewer system.

The County shall pay for all costs of connecting its collection lines into the Utility's mains, installing a meter of quality acceptable to the Utility to measure flows, and constructing a sampling station according to the Utility's construction requirements.

4. NOTIFICATION, ACCOUNT SET-UP AND RECONNECTION CHARGES

a. Notification Fee: A fee of $25.00 shall be charged each customer to whom the Utility mails the notice as required by Commission Rule R.103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating that cost.

b. Customer Account Charge: A fee of $20.00 shall be charged as a one-time fee to defray the costs of initiating service.

c. Reconnection charges: In addition to any other charges that may be due, a reconnection fee of $250.00 shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Rule R.103-532.4. Where an elder valve has been previously installed, a reconnection charge of thirty-five dollars ($35.00) shall be due. The amount of the reconnection fee shall be in accordance with R. 103-532.4 and shall be changed to conform with said rule as the rule is amended from time to time.

5. BILLING CYCLE

Recurring charges will be billed monthly. Nonrecurring charges will be billed and collected in advance of service being provided.

6. LATE PAYMENT CHARGES

Any balance unpaid within twenty-five (25) days of the billing date shall be assessed a late payment charge of one and one-half (1½%) percent.

7. TOXIC AND PRETREATMENT EFFLUENT GUIDELINES

The Utility will not accept or treat any substance or material that has been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Health and Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR §§ 129.4 and 401.15. Additionally, pollutants or pollutant properties subject to 40 CFR §§ 403.5 and 403.6 are to be processed according to the pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Utility's minimum pretreatment standards. Any person or entity introducing any such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the Utility for all damages and costs, including reasonable attorney's fees, incurred by the Utility as a result thereof.

8. PROPOSED REQUIREMENTS AND CHARGES PERTAINING TO SATELLITE SYSTEMS

a. Where there is connected to the Utility's system a satellite system, as defined in DHEC Regulation 61-9.505.8 or other pertinent law rule or regulation, the owner or operator of such satellite system shall operate and maintain same in accordance with all applicable laws, rules, or regulations.

b. The owner or operator of a satellite system shall construct, maintain, and operate such satellite system in a manner that the prohibited or untreated materials referred to in Section 6 of this rate schedule (including but not limited to Fats, Oils, Sand or Grease), storm water, and groundwater are not introduced into the Utility's system.

c. The owner or operator of a satellite system shall provide Utility with access to such satellite system and the property upon which it is situated in accordance with the requirements of Commission Regulation 103-537.

d. The owner or operator of a satellite system shall not less than annually inspect such satellite system and make such repairs, replacements, modifications, cleanings, or other undertakings necessary to meet the requirements of this Section 7 of the rate schedule. Such inspection shall be documented by written reports and video recordings of television inspections of lines and a copy of the

inspection report received by the owner or operator of a satellite system, including video of the inspection, shall be provided to the Utility. Should the owner or operator fail to undertake such inspection, Utility shall have the right to have service interrupted without notice until such inspection is conducted, and shall be liable to the Utility for all damages and costs, including reasonable attorney's fees, incurred by the Utility as a result thereof.

e. Should Utility determine that the owner or operator of a satellite system has failed to comply with the requirements of this Section 7 of the rate schedule, with the exception of the requirement that a satellite system be cleaned, the Utility may initiate disconnection of the satellite system in accordance with the Commission's regulations, and disconnection to endure until such time as said requirements are met and all charges, costs and expenses to which Utility is entitled are repaid. With respect to the cleaning of a satellite system, the owner or operator of a satellite system shall have the option of cleaning same within five (5) business days after receiving written notice from Utility that an inspection reveals that a cleaning is required. Should the owner or operator of such a satellite system fail to have the necessary cleaning performed within that time frame,. the Utility may initiate disconnection of the satellite system in accordance with the Commission's regulations, and disconnection to endure until such time as said requirements are met and all charges, costs and expenses to which Utility is entitled are repaid

9. CONSTRUCTION STANDARDS

The Utility requires all construction to be performed in accordance with generally accepted engineering standards, at a minimum. The Utility from time to time may require that more stringent construction standards be followed in constructing parts of the system.

10. EXTENSION OF UTILITY SERVICE LINES AND MAINS

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to discharge acceptable wastewater into its sewer system. However, anyone or any entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to an appropriate connection point on the Utility's sewer system may receive service, subject to paying the appropriate fees and charges set forth in this rate schedule, complying with the guidelines and standards hereof, and, where appropriate, agreeing to pay an acceptable amount for multi-tap capacity.

11. CONTRACTS FOR MULTI-TAP CAPACITY

The Utility shall have no obligation to modify or expand its plant, other facilities or mains to treat the sewerage of any person or entity requesting multi-taps (a commitment for five or more taps) unless such person or entity first agrees to pay an acceptable amount to the Utility to defray all or a portion of the Utility's costs to make modifications or expansions thereto.

12. SINGLE FAMILY EQUIVALENT

A Single Family Equivalent (SFE) shall be determined by using the South Carolina Department of Health and Environmental Control Guidelines for Unit Contributory Loading for Domestic Wastewater Treatment Facilities 25 S.C. Code Ann. Regs. 61-67 Appendix A (Supp. 2011), as may be amended from time to time. Where the Utility has reason to suspect that a person or entity is exceeding the design loadings established by the Guidelines for Unit Contributory Loadings for Domestic Wastewater Treatment Facilities, the Utility shall have the right to request and receive water usage records from that person or entity and/or the provider of water to such person or entity. Also, the Utility shall have the right to conduct an "on premises" inspection of the customer's premises. If it is determined that actual flows or loadings are greater than the design flows or loadings, then the Utility shall recalculate the customer's equivalency rating based on actual flows or loadings and thereafter bill for its services in accordance with such recalculated loadings.