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**BEFORE**

**THE PUBLIC SERVICE COMMISSION**

**OF SOUTH CAROLINA**

**DOCKET NO. 2014-346-WS – ORDER NO. 2017- _____**

**DECEMBER ____, 2017**

| | | |
|---|---|---|
| IN RE: | ) | |
| Application of Daufuskie Island Utility Company, Inc. | ) | APPLICANT'S |
| For Approval of a New Schedule of Rates and | ) | PROPOSED ORDER |
| Charges for Water and Sewer Service | ) | ON REMAND |
| | ) | |

## PROCEDURAL HISTORY

### The Rate Application

This matter is before the Public Service Commission of South Carolina (the "Commission") on the Application ("Application") of Daufuskie Island Utility Company, Incorporated ("DIUC" or "the Company") filed on June 9, 2015, seeking approval of a new schedule of rates and charges for water and sewer service that DIUC provides to customers within its authorized service area in South Carolina. The Application was filed pursuant to S.C. Code Ann. Section 58-5-240 and 10 S.C. Code Ann. Regs. 103-712.4.A and 103.512.4.A.

In its Application, DIUC requested an increase in revenues for combined operations of $1,182,301, consisting of a water revenue increase of $590,454 and a sewer revenue increase of $591,847. The revenue increase utilizes a return on equity ("ROE") of 10.5% based on the rate of return on rate base methodology and a 2014 historical test year. Tariff changes to bring the rates between the Haig Point and Melrose communities to uniformity were also requested.

DIUC's last rate case before this Commission was in Docket No. 2011-229-WS. In that case, Commission Order No. 2012-515 approved a settlement entered into by the Haig Point Club and Community Association, Inc. ("HPCCA"); Melrose Property Owner's Association, Inc. ("MPOA"); Bloody Point Property Owner's Association ("BPPOA") (collectively the "POAs"); and DIUC that was not objected to by the South Carolina Office of Regulatory Staff ("ORS"). Pursuant to the settlement, DIUC received a revenue increase of $291,485 based on a $5,000,000 rate base; an operating margin of 16.64%; and an ROE of 8.81%. DIUC also agreed not to seek another rate adjustment prior to July 1, 2014.

DIUC's South Carolina operations are classified by the National Association of Regulatory Utility Commissioners ("NARUC") as a Class B water and wastewater utility according to water and sewer revenues reported on its Application for the test year ending December 31, 2014. The Commission's approved service area for DIUC is on Daufuskie Island located in Beaufort County, South Carolina.

The Commission's Clerk's Office instructed DIUC to publish a prepared Notice of Filing, one time, in newspapers of general circulation in the area affected by DIUC's Application. The Notice of Filing described the nature of the Application and advised all interested persons desiring to participate in the scheduled proceedings of the manner and time in which to file appropriate pleadings for inclusion in the proceedings as a party of record. The Commission also instructed DIUC to notify each affected customer by mailing or, where the customer had previously agreed to electronic notice, by emailing each customer a copy of the Notice of Filing. DIUC filed Affidavits of Publication and Mailing demonstrating that the Notice of Filing had been duly published and provided to all customers.



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Petitions to Intervene were filed on behalf of the POAs on July 23, 2015, and Beach Field Properties, LLC ("Beach Field") on July 27, 2015.

Subsequent to their intervention, the POAs requested that the Commission schedule a public night hearing at a convenient time and location for customers of DIUC to present their comments regarding the service and rates of DIUC. In response, the Commission held a public night hearing pursuant to Order No. 2015-586. Under this Order, a public hearing was set and noticed by the Commission, and the Company provided an affidavit certifying that it had provided notice of the date, time and location of the local public hearing via publication in The Beaufort Gazette and The Island Packet. On September 15, 2015, the Commission held a night hearing beginning at 6:00 pm at the Haig Point Club Clubhouse, 130 Clubhouse Lane, Daufuskie Island, South Carolina.

**The Hearing**

On October 28, 2015, the Commission, with Chairman Nikiya Hall presiding, heard the matter of DIUC's Application beginning at 10:30 am in the Commission Hearing Room located at 101 Executive Center Drive in Columbia, South Carolina. DIUC was represented by G. Trenholm Walker, Esquire, and Thomas P. Gressette, Jr., Esquire. The POAs were represented by John J. Pringle, Jr., Esquire. Beach Field was represented by Margaret M. Fox, Esquire. ORS was represented by Shannon Bowyer Hudson, Esquire, and Andrew M. Bateman, Esquire.

After the hearing was called to order by Chairman Hall, Mr. Pringle asked to present a "preliminary matter" at which time he informed the Commission that the Intervenors and ORS had filed with the Commission a "settlement agreement." Hearing Transcript at 40. Pursuant to the purported "settlement agreement," ORS and the Intervenors agreed to stipulate to "all of the adjustments made by the ORS, with the exception that the ORS amended its bad debt allowance

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to utilize the allowance proposed by Daufuskie Island Utility Company, Inc. (the "Company") in its Application. No other changes were made by ORS in reaching the Settlement." *See* Transcript at 41-42.

DIUC objected to the purported "settlement agreement" asserting that the Commission should not consider it, take notice of it, or incorporate it into the record. *See* Transcript at 42-44. DIUC objected on the grounds that the "settlement agreement" endorsed an even lower revenue number than originally proposed by ORS, that any agreement between ORS and Intervenors is irrelevant to the Application since the Company did not agree to the terms of the purported settlement agreement, and that admission of this particular "settlement agreement" would be prejudicial to the Company. *Id.* The Commission overruled the Company's objection.

DIUC presented the prefiled and summary testimony of John F. Guastella, President of Guastella Associates, LLC and Gary C. White, Vice President of Guastella Associates, LLC. *See* Transcript at 134-296 and 119-133. Guastella Associates LLC ("GA") provides management, valuation and rate consulting services to water and wastewater utilities around the country, and has been the contract manager of DIUC (and its predecessors) since July 9, 2008.[1] DIUC also presented the prefiled and summary testimony of The Honorable Maria Walls, Treasurer of Beaufort County, and prefiled testimony of and Eric Johanson, Chief Operator of DIUC. *See* Transcript at 73-111 and 112-118.

The Intervenors presented prefiled and summary testimony of Charles Loy and Lynn M. Lanier, both of whom are principals with GDS Associates, Inc., a utility consulting and

[1] The stock purchase of Haig Point Utility Company, Inc. (now DIUC) by CK Materials LLC on July 9, 2008, from Haig Point, Inc. (formerly International Paper Realty Corporation of South Carolina) was approved by the Commission. The stock of DIUC was transferred from CK Materials, LLC to Daufuskie Island Holding Company, LLC in 2013 when the Commission approved DIUC's financing with SunTrust Bank.

engineering firm with its principal offices in Marietta, Georgia. *See* Transcript at 347-464.

The Intervenors also presented prefiled and summary testimony of the following DIUC customers: Doug Egly, Tony Simonelli, Paul Vogel, and Harry Jue. *See* Transcript at 305-347. Beach Field did not present any witnesses. ORS presented prefiled and summary testimony of Ivana C. Gearheart, ORS Audit Manager; Willie J. Morgan, Deputy Director of the Water and Wastewater Division of ORS; and Dr. Douglas H. Carlisle, Economist at ORS. *See* Transcript at 466-543. Pursuant to motions by each party, all prefiled testimony was read into the record as if given orally.

On November 25, 2015, DIUC submitted its proposed order approving rates and charges. ORS and the Intervenors jointly submitted a proposed order requesting the Commission approve the Settlement Agreement between ORS and the Intervenors.

On December 8, 2015, the Commission entered its decision, docketed as Order No. 2015-846, accepting the Settlement Agreement and making findings and conclusions implementing the Settlement Agreement's terms as its ruling on DIUC's application. DIUC filed a timely Petition for Reconsideration and/or Rehearing on December 21, 2015. By Order No. 2016-50 dated February 25, 2016, the Commission denied the Petition for Reconsideration and/or Rehearing.

On March 22, 2016, DIUC served its Notice of Appeal of Order No. 2015-846 and Order No. 2016-50 (collectively referred to herein as "Order 2015-846").

**<u>The Appeal and Remand for Rehearing</u>**

On appeal, DIUC asked the Supreme Court to consider Order 2015-846's adoption of the ORS-Intervenors Settlement Agreement and other evidentiary rulings by the Commission. DIUC also appealed Order 2015-846's ruling upon five adjustments that were included in the Settlement Agreement between ORS and the Intervenors. DIUC asserted that by adopting the adjustments in



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the Settlement Agreement, Order 2015-846 improperly rejected revenue calculations requested by DIUC.

The Supreme Court heard oral argument on the appeal on December 14, 2016, and on July 26, 2017, issued its Opinion. In its Opinion, the Supreme Court ruled Order 2015-846 "contained multiple adjustments which were entirely unsupported by the evidence presented to the Commission." *Daufuskie Island Util. Co., Inc. v. S.C. Off. of Reg. Staff*, 803 S.E.2d 280, 286 (S.C. 2017). Accordingly, the Court reversed and remanded the matter "for a new hearing as to all issues." *Id.* The issues referred to by the Court are Order 2015-846's adjustments to Property Taxes, Plant In Service, Bad Debts, Management Fees, and Rate Case Expenses.

Although the Supreme Court did not individually analyze two of the five adjustments, the Court did explicitly address three adjustments "in order to provide guidance to the Commission on remand." *Daufuskie Island Util. Co., Inc. v. S.C. Off. of Reg. Staff*, 803 S.E.2d 280, 286 (S.C. 2017). Those adjustments were to Property Taxes, Plant In Service, and Bad Debts.

Following remand and prior to rehearing by this Commission, DIUC filed Applicant's Proposal for Procedure Following Remand and Expedited Hearing. *See* DMS Entry #272433. In that Proposal, DIUC explained its position that the Supreme Court's Order did not require or authorize any additional discovery for the matters to be addressed on remand. *Id.* DIUC cited the high costs of the original proceeding and appeal as well as the mounting costs of the rate case following the appeal. Intervenors responded by asserting their entitlement to discovery without any limitation. *Id.*

Standing Hearing Officer David Butler issued Orders 2017-59-H and 2017-60-H finding that "since the Commission will hold a new hearing on all … issues, the Commission's discovery rules are clearly applicable." On October 16, 2017, DIUC filed a Motion to Reconsider Directives



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2017-59-H and 2017-60-H with Affidavit of John F. Guastella explaining to the Commission that a decision on the Application was necessary prior to the conclusion of 2017, because the bonds this Commission ordered so that DIUC could collect its requested rates pending appeal would expire on December 31, 2017, and DIUC is not able to obtain renewals of the bonds. DIUC also immediately submitted its prefiled testimony.

In response to the Motion to Reconsider and DIUC's prompt filing of its prefiled testimony, Standing Hearing Officer Butler issued Order 2017-61-H revising the schedule in this matter to allow for a hearing and decision of this Commission prior to December 31, 2017.

The parties participated in discovery and prefiled testimony of their witnesses. A hearing was convened on December 6, 2017, in the Commission Hearing Room located at 101 Executive Center Drive in Columbia, South Carolina. DIUC was represented by G. Trenholm Walker, Esquire, and Thomas P. Gressette, Jr., Esquire. The POAs were represented by John J. Pringle, Jr., Esquire and John F. Beach, Esquire. ORS was represented by Andrew M. Bateman, Esquire, and Jeff Nelson, Esquire.

DIUC presented the prefiled and summary testimony of John F. Guastella, President of Guastella Associates, LLC and Gary C. White, Vice President of Guastella Associates, LLC. The Intervenors presented prefiled and summary testimony of Charles Loy and Lynn M. Lanier. ORS presented prefiled and summary testimony of Dawn M. Hipp, a Director in the ORS Utility Rates and Services Department; Daniel F. Sullivan, Deputy Director of the ORS Audit Department; and Dr. Douglas H. Carlisle, Economist at ORS. The testimony of ORS witnesses Hipp and Sullivan was limited to certain matters and expressly relied upon the previous testimony of ORS witnesses Ivana C. Gearheart and Willie J. Morgan, as provided in the original hearing.



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Pursuant to motions by each party, all prefiled testimony was read into the record as if given orally. Prior to the December 6, 2017, rehearing, a Certified True Copy of the Transcript of Testimony and Proceedings with 6 Hearing Exhibits of the prior hearing in this matter (Hearing #15-11494, held on October 28, 2015) was filed in the docket. *See* Rehearing Transcript, Rehearing Exhibit 2. During the December 6, 2017, rehearing, the Transcript of Hearing #15-11494 was entered as Hearing Exhibit 2. As such, the Transcript with Exhibits is part of the record for this rehearing proceeding.

The rehearing was recessed in the afternoon on December 6, 2017, reconvened on the morning of December 7, 2017, and then concluded in the afternoon on December 7, 2017. The parties were instructed to provide proposed orders to the Commission on or before 5:00pm on December 15, 2017.

## FINDINGS OF FACT WITH CORRESPONDING REVIEW OF EVIDENCE AND CONCLUSIONS OF LAW

The Commission has evaluated the positions of the parties and based upon view of the facts and evidence of record, the Commission has reached the legal and factual conclusions herein set forth.

### Authority of the Commission and Standards

The Commission is vested with authority to regulate rates of every public utility in this state and to ascertain and fix just and reasonable rates for service. S.C. Code Ann. §58-5-210, *et. seq*. As demonstrated by the evidence supporting the Company's business and legal status contained in the Application filed by DIUC, testimony, and in prior Commission orders in the docket files of the Commission, of which the Commission takes judicial notice, DIUC is a water and sewer utility providing water and sewer service in its assigned service area on Daufuskie

Island, Beaufort County, South Carolina. DIUC's operations in South Carolina are subject to the jurisdiction of the Commission.

DIUC's Application was filed pursuant to S.C. Code Ann. §§ 58-5-210 and 58-5-240 and 10 S.C. Code Ann. Regs. 103-712.4.A and 103.512.4.A. In considering the Application, the Commission must ascertain and fix just and reasonable rates, standards, classifications, regulations, practices, and measurements of service to be furnished. Thus, the Commission must give due consideration to the Company's total revenue requirements and review the operating revenues and operating expenses of DIUC to establish adequate and reasonable levels of revenues and expenses. The Commission will consider a fair rate of return for DIUC based on the record and any increase must be just and reasonable and free of undue discrimination. DIUC has also asked this Commission to establish revenues based on an authorized ROE which will allow DIUC the opportunity to earn a fair return.

**Adoption of a Test Year**

A fundamental principle of the ratemaking process is the establishment of a historical test year as the basis for calculating a utility's operating margin or, in this case, a return on rate base. In order to determine what a utility's expenses and revenues are for purposes of determining the reasonableness of a rate, the Commission selects a "test year" for the measurement of the expenses and revenues. *Heater of Seabrook v. Public Service Commission of South Carolina*, 324 S.C. 56, 478 S.E.2d 826, 828 n.1 (1996). While the Commission considers a utility's proposed rate increase based upon occurrences within the test year, the Commission will also consider adjustments for any known and measurable out-of-test year changes in expenses, revenues, and investments, and will also consider adjustments for any unusual situations which occurred in the test year. Where an unusual situation exists which shows that the test year figures are atypical,



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the Commission should adjust the test year data. *See Southern Bell v. The Public Service Commission*, 270 S.C. 590, 244 S.E. 2d 278 (1978); *see also Parker v. South Carolina Public Service Commission*, 280 S.C. 310, 313 S.E.2d 290 (1984) *citing City of Pittsburgh v. Pennsylvania Public Utility Commission*, 187 P.A. Super. 341, 144 A.2d 648 (1958).

In its Application, DIUC utilized a historic test year – the twelve months ending December 31, 2014, with adjustments for 2015 expectations. ORS also used the 2014 historical test year, as did the POAs. *See* Hearing Transcript at 489 and Hearing Transcript at 397.

Based on the information available to the Commission and the fact that all parties agreed to a calendar year 2014 test year, the Commission is of the opinion, and therefore concludes, that the test year ending December 31, 2014, is appropriate for the purposes of considering this Application.

**Rate of Return on Rate Base**

DIUC requested that its rates be determined in accordance with the rate of return on rate base methodology. The determination of rate of return on rate base requires three components: 1) capital structure; 2) cost of debt; and 3) cost of equity (or return on equity). However, by statutory requirement, the Commission must specify an allowable operating margin in all water and wastewater orders. *See* S.C. Code Ann. § 58-5-240(H). Although the Commission must specify an operating margin in its order, this does not mean that the operating margin methodology must be used in determining a fair rate of return. *See Heater of Seabrook v. Public Service Commission of South Carolina*, 324 S.C. 56, 64, 478 S.E.2 826, 830 (1996). Operating margin "is less appropriate for utilities that have large rate bases and need to earn a rate of return sufficient to obtain the necessary equity and debt capital that a larger utility needs for sound operation." *Id*. No party contested the use of the rate of return on rate base methodology and given the size of DIUC's rate base, the Commission finds the rate of return on rate base



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methodology appropriate in this case.

**Cost of Equity/Return on Equity**

In the initial proceeding, DIUC requested a Return on Equity ("ROE") of 10.5%. ORS recommended an ROE of 9.31% based on a range of 8.91% to 9.71%. The POAs recommended a third ROE in the range of 8.5% to 9.0%, until they abandoned that position to join the ORS-Intervenors Settlement Agreement.

Order 2015-846 adopted the range proposed by ORS. As explained in the Order, ORS used the well-known and commonly-accepted DCF method, CAPM, and CEM for developing its stated ROE range of 8.91% to 9.71%. Those methods, as applied by ORS, are grounded in sound analysis. While the POAs also considered these analyses, the POAs did not actually perform the DCF, CAPM, and CEM studies that ORS reported having performed. ORS agreed to an ROE that falls within the range of Dr. Carlisle and rounds to his recommended ROE of 9.3%.

In its rehearing papers, DIUC again proposed a 10.5% ROE. If we adopt DIUC's ROE then the resulting revenue will exceed the total revenue increase of 108.9% the Applicant originally requested. Therefore, the Commission will continue to apply the 9.3% ROE included in Order 2015-846 so that any increased ordered will be in accord with the previous public notices of the Applicant. *See also*, *supra*, "Deferral of Certain Rate Case Expenses Until Next Rate Proceeding."

**Capital Structure and Cost of Debt**

With respect to the capital structure, DIUC recommended a pro forma capital structure of 41.2% debt and 58.8% equity. ORS witness Dr. Carlisle testified he had two concerns with the method DIUC used to calculate its capital structure: 1) DIUC included pro-forma long-term debt



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in its long-term debt calculation; and 2) DIUC proposed an inflated equity amount. *See* Hearing Transcript at 472. Dr. Carlisle noted that both result in an increase in the ROE. *Id.*

The pro forma debt is based on the cost of debt DIUC expects, and as Dr. Carlisle noted, the outcome of DIUC's negotiations with banks or lenders is unknown at this time; therefore, DIUC's pro forma debt should not be included. *See* Hearing Transcript at 473. The POAs' witness Lanier also agreed that debt should not include future amounts. *See* Hearing Transcript at 436. Dr. Carlisle further testified that DIUC's capital structure is weighted more heavily with equity, which is more expensive than debt. *See* Hearing Transcript at 473.

In contrast to a projected or pro forma capital structure, ORS recommended a hypothetical capital structure of 46% long-term debt and 54% equity calculated by averaging the known capital structures used by water companies in the United States with publicly traded stock. *Id.* The POAs produced an adjusted capital structure of 57.55% debt and 42.45% equity. *See* Hearing Exhibit 14, based on a reduced rate base.

As to the specific cost of debt rate, DIUC recommended 6.20%. The POAs testified that 6.20% is relatively high in the current interest rate environment, but is probably a reasonable rate given DIUC's precarious financial state. *See* Hearing Transcript at 436. To calculate the 6.20% debt rate, DIUC included anticipated legal and GA fees in the financing fees. In support of the debt amount, Mr. Guastella testified the debt he used is based on his knowledge of prior financing costs applied to the costs expected to be incurred for future refinancing. *See* Hearing Transcript at 243.

ORS, however, did not incorporate the additional fees into the debt rate; instead, ORS recommended that the actual debt rate being paid by DIUC to the current lending institution, 5.29%, be used. See Hearing Transcript at 497. In the Settlement Agreement, the POAs agreed



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to the 5.29% cost of debt recommended by the ORS.

The Commission will continue to apply the 9.3% ROE included in Order 2015-846 so that the new rates can be in accordance with the previous public notices of the Applicant. *See also*, *supra*, "Deferral of Certain Rate Case Expenses Until Next Rate Proceeding."

Upon consideration of evidence, the Commission adopts the capital structure, 46% long-term debt and 54% equity, and debt rate, 5.29%, recommended by ORS. The Commission declines to use the POAs' capital structure because it is based on adjustments to DIUC's rate base (discussed in the Rate Base section below) that this Commission declines to adopt.

**Performance Bond**

DIUC is currently providing the maximum amount required for its performance bond in the amount of $350,000 for water and $350,000 for sewer operations. Using the criteria set forth in 10 S.C. Code Ann. Regs. 103-512.3.1 and 103-712.3.1, ORS recommended that DIUC be required to continue the current performance bond amounts. DIUC and the POAs did not challenge the performance bond amounts. Accordingly, and pursuant to S.C. Code Ann. § 58-5-720 and 10 S.C. Code Ann. Regs. 103-512.3 and 103- 712.3, the Commission requires that DIUC maintain its performance bond in the amount of $350,000 for water and $350,000 for sewer operations.

**Remand and Instructions from the Supreme Court**

Because this matter is currently before the Commission on rehearing, it is prudent to explain how the parties and the Commission have approached the scope of rehearing.

In Opinion No. 27729, *Daufuskie Island Util. Co., Inc. v. S.C. Off. of Reg. Staff*, 803 S.E.2d 280 (S.C. 2017), the Supreme Court provided instruction as to three of the five adjustments raised by DIUC in its appeal. Therefore, this Commission on remand must alter its previous rulings to



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recognize DIUC's ownership of the water tank, well, pipes, and other utility equipment located on the Elevated Tank Site for inclusion of those facilities in Plant in Service; to allow revenue for all taxes requested by the Application; and to determine an appropriate adjustment for Bad Debts that is supported by the evidence before the Commission.

Of particular note in the Supreme Court's decision are two points regarding the evidence to be considered by the Commission. First, the Supreme Court addressed use of the test year by explaining that "significant known expenses incurring after the test year must be taken into account to give the Commission the most accurate view of the applicant's status." *Daufuskie Island Util. Co., Inc. v. S.C. Off. of Reg. Staff*, 803 S.E.2d 280, 286 (S.C. 2017). The Court also took the opportunity to explain:

> We now hold that a remand to the Commission for a new hearing necessarily grants the parties the opportunity to present additional evidence. Rate cases are heavily dependent upon factors which are subject to change during the pendency of an appeal, thus it serves no purpose to bind parties to evidence presented at the initial hearing which may no longer be indicative of the current economic realities on remand.

*Daufuskie Island Util. Co., Inc. v. S.C. Off. of Reg. Staff*, 803 S.E.2d 280, 286 (S.C. 2017).

Noting the Court's instructions on these points and the mandate to conduct a *de novo* hearing, the Commission scheduled a hearing. DIUC submitted additional prefiled testimony from its previous witnesses, Mr. Guastella and Mr. White. That testimony adopted and relied upon all of DIUC's previous testimony. The POAs provided additional prefiled testimony from Mr. Loy and Mr. Lanier.

ORS submitted additional prefiled testimony which it characterizes as re-affirming its witnesses' previous testimony, except for certain changes made in response to the Supreme Court's ruling. ORS presented Dr. Carlisle again with new witnesses Dawn Hipp and Daniel Sullivan. As Ms. Hipp explained,



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> The purpose of my rehearing testimony is to adopt the direct testimony and exhibits of Willie J. Morgan filed on October 2, 2015, and re-affirm the positions taken by ORS witness Morgan during the October 28, 2015, hearing with the exception of any changes made to comply with the South Carolina Supreme Court Opinion No. 27729, Supreme Court Order issued on November 15, 2017, or resulting from new evidence presented by Daufuskie Island Utility Company, Inc. ("DIUC" or "Company"). The ORS adjustments to comply with the South Carolina Supreme Court Opinion and Order include incorporating the elevated water storage tank and other utility equipment on the "Elevated Tank Site" property in rate base, property tax expenses, bad debt expense and bond premiums.

Rehearing Transcript at 465. Mr. Sullivan also testified that, "In order to comply with the Court's guidance, ORS determined that plant-in-service, property taxes and bad debt expense should be adjusted." Rehearing Transcript at 435.

In accordance with the Supreme Court's direction and based upon the evidence presented by the parties, the Commission makes the following findings of fact, statements of supporting evidence, and conclusions of law. The adjustments raised on appeal (Property Taxes, Plant In Service, Management Fees, Rate Case Expenses, and Bad Debts) will be addressed first. Next, the Commission will address the issues presented at rehearing regarding Rate Base and Depreciation Expense/Accumulated Depreciation. In a separate section the Order will explain why the positions asserted by the POAs through their witnesses Lanier and Loy as to rate base must be rejected.

**Utility Property Taxes**

The property tax expense at issue in this matter has two components: the recovery of past due taxes in accordance with a settlement agreement between DIUC and Beaufort County Treasurer, and sufficient income to address current and future annual property taxes.

With respect to the ongoing annual level of Utility Property Taxes, the Company requests $192,372 for the combined water and sewer ongoing annual Utility Property Tax, which is calculated on the basis of its December 31, 2015, book value, application of DOR's method of



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assessment, and application of Beaufort County's current tax rate, which will be the basis for the 2016 Utility Property taxes. *See* Hearing Transcript at 168-170. The 2012, 2013, 2014, and 2015 taxes are also being paid over an 8 year period as part of the Settlement Agreement and Addendum with Beaufort County.

With regard to DIUC's Utility Property Taxes, ORS witness Mr. Sullivan explained ORS's revised position:

> Based on guidance from South Carolina Supreme Court Opinion No. 27729, ORS computed an adjustment to amortization expense for property taxes of $526,848 amortized over eight (8) years for an annual amortization of property taxes of $65,856. This adjustment amount agrees with the Company's adjustment in its rehearing testimony and exhibits.

Sullivan Rehearing Revised Testimony at 9.

The Commission finds that the actual and known and measurable amounts for Utility Property Taxes necessary to cover the eight year installment payments under DIUC's Settlement Agreement and Addendum with Beaufort County Treasurer and its ongoing annual amounts are $65,855 and $192,372, respectively. This is based upon the Application and testimony of witnesses Guastella, White, Walls, Gearheart, Hipp, and Sullivan as well as the instructions of the Supreme Court in Opinion 27729.

**<u>The Facilities and Plant In Service</u>**

DIUC is permitted to earn a return on the net investment in Utility Plant in Service that it owns. Under South Carolina Law, "plant" includes "[a]ll facilities owned by the utility for the collection, production, purification, storage, transmission, metering, and distribution of potable water." 10 S.C. Code Ann. Regs. 103-702.16

DIUC reasserts in its rehearing testimony that it is entitled to include a total of $8,139,260 in Utility Plant in Service. In the primary case, ORS made a total adjustment to Utility Plant in



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Service in the amount of a reduction of $1,624,696. On remand, ORS has altered its previous position to now include within Utility Plant in Service an additional $925,335, of which $863,379 is for the elevated storage tank and facilities and $61,956 for the well located at that site. ORS witness Dawn Hipp testified that ORS had changed its previous position "to comply with the South Carolina Supreme Court Opinion and Order" resulting in an inclusion of "the elevated water storage tank and other utility equipment on the 'Elevated Tank Site' property in rate base." Hipp Revised Testimony at p. 2. According to ORS witness Sullivan, "ORS now computes an adjustment to gross plant in service of ($699,361) which is shown on Rehearing Audit Exhibit DFS-5." Sullivan Revised Rehearing Testimony at 10. ORS does not provide any additional support for this adjustment of $699,361; instead, ORS relies solely on the previous testimony of Ivana C. Gearheart for the other adjustments to plant-in-service, as included on Audit Exhibit ICG-5. *Id*. at 11.

The Commission has reviewed Ms. Gearheart's testimony from the previous hearing and finds that Ms. Gearheart failed to itemize the specific assets or costs that are the basis of ORS's proposed adjustments to utility plant in service.

As explained by the record from the previous hearing, specifically the testimony of Mr. Guastella, information provided to DIUC by ORS indicates a portion of ORS's total adjustments to utility plant relates to the absence of invoices confirming the original construction costs of particular facilities used and owned by the Company. Mr. Guastella testified, however, that the absence of those invoices does not constitute a lack of documentation of cost for ratemaking when there is no question the facilities are in service, used, and usable. *See* Hearing Transcript at 150-152. Further, Mr. Guastella explained that DIUC provided ORS with itemized assets, by primary plant account, description of original costs as booked, year of installation and in service dates.



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*See* Hearing Transcript at 150-153. Mr. Guastella also testified at the hearing it was the now defunct Melrose Utility Company that failed to retain many of the invoices now sought by ORS. *Id*.

As pointed out by DIUC in the primary case, in direct testimony ORS witnesses Gearheart made adjustments for land, capital costs and other unspecified assets in various accounts, without providing any evidence to support her adjustments; Ms. Gearhart merely stated that they were "non-allowable," "adjustments from the previous case," or "undocumented." Ms. Gearheart did not provided any other testimony or analyses to support her adjustments. In his rebuttal testimony, Mr. Guastella explained the basis for and justification of the costs included in the $699,361 that was adjusted by ORS. With respect to Ms. Gearheart's claim that costs were "undocumented," Mr. Guastella's testified:

> In fact, itemized costs at specific amounts, by primary plant account and the year in service, are recorded on the DIUC's books, which certainly constitute "documentation". The ORS does not claim that the assets in question do not exist and are not used and useful, nor does it question the reasonableness of the amounts that it clearly observed from DIUC's records. Some missing invoices for a relative small portion of plant, particularly for the Melrose Utility Company that essentially abandoned its system, does not constitute an absence of evidence of the reasonable of the utility plant costs for assets that are providing service. Even the Intervenors' expert, Mr. Loy, understands such circumstances.

Hearing Transcript at 203 to 204.

Mr. Guastella also explained the role of estimating costs.

> These studies are typically performed when there are no supporting cost records of plant. The NARUC USoA requires an 'estimate' of plant values when there is no supporting documentation available. Original cost studies have been an accepted methodology to establish these values.
>
> Although Mr. Loy applies that statement to his opinion with respect to an issue he raised with which I disagree and will discuss later, he is correct that the cost of plant is not properly disallowed because of a lack of documentation, but instead it is proper and consistent with the NARUC USoA to use estimates. In this case, however, it is not necessary to estimate the costs because the costs are known and recorded, and the assets are used and useful in providing service to our customers.



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Hearing Transcript at 204.

The POAs' expert Mr. Loy agreed with DIUC's approach to estimate the plant values, testifying:

> These studies are typically performed when there are no supporting cost records of plant. The NARUC USoA requires an 'estimate' of plant values when there is no supporting documentation available. Original cost studies have been an accepted methodology to establish these values.

Hearing Transcript at 202-203.

With respect to legal and capital costs associated with plant in service, Mr. Guastella testified about specific costs in the following exchanges:

> Q. What adjustments did the ORS propose with respect to legal and consulting fees that are reflected in DIUC's utility plant in service?
>
> A. Ms. Gearheart's testimony and exhibits do not specifically identify the amounts of those adjustments. They are lumped in with her adjustment to utility plant in service. It is our understanding that she proposes to eliminate the legal fees incurred in connection with the condemnation of the Sabry parcel and to eliminate GA consulting fees that were capitalized. I would note that Ms. Gearheart's statement that the legal costs of $29,511were for condemnation of the water tower is incorrect. DIUC is condemning the land, not the water tank that DIUC already owns.
>
> Q. Why was the condemnation action required?
>
> A. When we learned of the tax sale of the storage tank parcel, our first reaction was to reason with Mr. Sabry. When that was unsuccessful, we filed a legal action to reverse the tax sale. Subsequently, however, our attempt to finance with CoBank and then Wells Fargo fell through, and our need to obtain financing for capital improvements had to be our primary objective. It became evident that the proceeding to reverse the tax sale would be drawn out and result in an unacceptable delay in obtaining a loan. The best course of action was to withdraw the law suit and initiate a condemnation, an action that SunTrust would accept -- and made it a requirement of the loan.
>
> Q. Why should the legal fees be included in the cost of providing service?
>
> A. The tax sale was beyond our control. Upon managing DIUC, we notified Beaufort County of the new address, and we received regular property tax bill from



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Beaufort County at that address. For an unknown reason, Beaufort County sent a tax bill for the storage tank parcel of land to the wrong address without our knowledge, as well as notices of a delinquency and a tax sale. It even posted a notice of the tax sale at the wrong property, and our operators never observed any notice at the storage tank site which they visit daily. The legal fees were, therefore, unavoidable and included in the cost of land.

Q. Why should GA's fees related to capital improvements be included in the cost of providing service?

A. GA's management agreement contain a provision under which work performed in connection with capital improvements is not part of the routine day-to-day management of DIUC and, therefore, would be billed at 10% of the first $50,000 of improvements and 8% of capital costs over $50,000. The work involves establishing the improvements that are needed or desirable, establish priorities in terms of their impact on service and available funding cost, solicit and obtain contractors' proposals, select contractors, schedule and coordinate work with DIUC's routine operations, and supervise the construction work.

Q. Did ORS provide any reason for eliminating GA's fees related to capital improvements?

A. Not that I could find.

Q. Why should GA's fees related to capital improvement be included in rate base as part of the cost of the improvements to utility plant is service?

A. GA's capital fees are not only part of an arms-length management agreement, they are necessary and the cost is reasonable. It is obvious that capital improvements cannot be made without the work I describe above. The 10% and mostly 8% of the construction costs are significantly less that the 15% to 20% typically allowed for administration and supervision of construction work."

Hearing Transcript at 204-206. With respect to land values, Mr. Guastella testified:

Q. Has the ORS included anything for the cost of land in utility plant in service?

A. No.

Q. Did the ORS give a reason for eliminating any value for land?

A. Not that I could find.

Q. What have you included as the cost of land for the parcels owned by DIUC?



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> A. We estimated the cost of land at about $0.25 per square foot on the basis of the appraised value of the storage tank parcel that was performed by an independent appraiser we engaged in connection with the condemnation proceeding. The total estimated cost of land, excluding capitalized legal fees, is $109,560.

Hearing Transcript at 206-207.

Mr. Guastella's testimony on these issues was not refuted by any surrebuttal testimony in the primary case. None of ORS's or Intervenors' witnesses in the rehearing testimony have added to Ms. Gearheart's testimony regarding the $699,361 of Utility Plant in Service or addressed Mr, Guastella's rebuttal testimony in the primary case regarding these adjustments.

The Commission agrees with Mr. Guastella that ORS has failed to establish that the alleged lack of invoices constitutes an absence of evidence as to the reasonableness of the cost of a utility's assets that are providing service. Providing ample evidence in support of DIUC's position, Mr. Guastella testified at length as to how DIUC documented the costs by providing documentation from its books and records as to the cost of plant and identification of the plant. *See* Hearing Transcript at 151-152. We find the absence of invoices is not equivalent to a total absence of documentation of the cost of these particular assets that are unquestionably in service.

Mr. Guastella also testified that it is consistent with the NARUC Uniform System of Accounts ("NARUC USoA") to estimate the cost of utility plant in the absence of the original documentation, pointing out that Intervenors' witness, Mr. Loy, also made that observation in his testimony with respect to another issue. When asked on cross-examination about this estimating procedure, Ms. Gearheart testified that she was not aware of that provision in the NARUC USoA. *See* Hearing Transcript at 530.

The Commission finds that based upon the Application and the testimony of witnesses Guastella, White, Gearheart, and Loy, ORS's remaining Plant in Service adjustment of $699,361 for "undocumented expenses" is not supported and is rejected. Accordingly, the complete amount



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of Utility Plant in Service of $3,949,956 for water and $4,139,260 for sewer, or a total of $8,139,260, as requested by the Application, shall be included in the allowance for Utility Plant in Service.

**Accumulated Depreciation and Depreciation Expense**

DIUC witness Gary White's direct rehearing testimony presented DIUC's rate analysis and supporting schedules in Exhibit GCW-R1, which includes proposed accumulated depreciation in the amount of $429,396 for water and $348,458 for sewer, and depreciation expense of $42,120 for water and $ 53,420 for sewer, net of the annual amortization of CIAC. Mr. White's prefiled rehearing rebuttal testimony addressed ORS witness Sullivan's depreciation amounts for both accumulated depreciation and depreciation expense, pointing out several inconsistencies in the ORS testimony. Mr. White observed that Mr. Sullivan's depreciation schedules are in conflict with DIUC's book figures, there are no known and measurable changes after December 31, 2014, and his roll forwards are not consistent with ORS's position in the 2011 rate case as to plant in service, accumulated depreciation and average service lives. Mr. White also provided a detailed roll forward of depreciation expense and accumulated depreciation in Exhibit GCW-R2. In his surrebuttal testimony, Mr. Sullivan states that he focused on the issues from the Supreme Court decision and given the limited time in this rehearing process, he did not undertake further reviews of DIUC's books and records or ORS's position in the 2011 rate case or the positions reflected in Ms. Gearheart's part of this docket. Sullivan Rehearing Surrebuttal Testimony at 2. So, Mr. Sullivan does not refute Mr. White's depreciation recommendations.

The Commission is accepting the Utility Plant in Service proposed by DIUC and given the testimony of Mr. White and ORS and Intervenors witnesses, also accepts the detailed depreciation analysis provided by Mr. White.



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**Management Fees**

In its Application, DIUC requested $171,364 for outside management services. As previously stated herein, DIUC has a contract with Guastella Associates LLC ("GA") for management services which was entered into evidence. *See* Hearing Transcript, Hearing Exhibit 9. GA provides management, valuation, and rate consulting services to water and wastewater utilities around the country, and has been the contract manager of DIUC (and its predecessors) since July 9, 2008. The most recent management agreement dated June 18, 2015, states and DIUC witness Guastella confirmed in testimony that DIUC pays GA a management fee of $13,596.85 per month with an annual 3.5% increase. *Id.*

The $171,364 for management fees included in the Application reflect charges under the agreement between GA and DIUC and its owners. That agreement spells out GA's responsibilities and duties, and has provisions for fees and charges, including day-to-day management, finance, capital, and incentive fees. *See* Hearing Transcript, Hearing Exhibit 9.

In accordance with the management agreement, GA's scope of services include:

1. Supervise the day to day operation and maintenance of the Company's system, including supervision of operating employees, vendors and contractors.

2. Maintain books and records, including accounting, financial and operation records, in accordance with the uniform system of accounts prescribed by the PSC and required by the DHEC.

3. Perform all billing, accounting and collecting (other than commencing litigation), including the preparation of customer account records and billing analyses as necessary for rate filing requirements.

4. Prepare financial and operating reports to regulatory agencies, including annual reports to the PSC and monthly operating reports to DHEC. Prepare annual budgets and financial reports to stockholders, as well as periodic (quarterly) financial and operating reports.

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5. Provide information and assistance to outside tax accountants, consultants, engineers and attorneys as required in the normal course of business.

6. Obtain short and long term financing, as available and necessary, for operations and capital improvements and prepare the necessary documentation for lenders.

7. Employ and supervise all employees, vendors, contractors and outside professionals as appropriate to operate, maintain and expand the Company's system, to direct and supervise all plant expansion, capital improvements and replacements, and to carry out all other services required of GA under this Agreement.

8. Implement existing contracts with developers and customers, and negotiate and implement new contracts and applications for service.

9. Revise and maintain general tariff provisions as to rates and terms of service, in compliance with changes approved by the PSC.

10. Be responsible for and carry out all other business incidental to the ordinary course of business management and operation of the Company.

*See* Hearing Transcript, Hearing Exhibit 9.

ORS proposes to reduce the management fee to $132,211, a level that it claims the Commission previously approved.[2] At the original hearing, the only reason ORS supplied for its reduction was Ms. Gearheart's assertion that the management services provided by GA did not increase from 2011. She testified, "During the review, ORS did not find that the management services provided by Guastella and Associates ("GA") increased and did not find the requested increase justifiable." *See* Hearing Transcript at 493. This assertion, of course, ignores the specific term of the management agreement that requires an annual increase of 3.5% per year and it does not take into account any amount for inflation. *See* Hearing Transcript, Hearing Exhibit 9 at page 5 ("The Management Fee shall increase annually beginning on January 1 of each year this

[2] The Commission did approve a settlement in DIUC's 2011 rate case, but the settlement does not make any reference to the management fee.

Agreement is in effect by … 3.5%.”).

In response to interrogatories, however, ORS acknowledged that the management services were actually performed by GA, they were necessary to provide service, and that GA was qualified to manage DIUC.

> **Interrogatory #8.** With respect to Ms. Gearheart’s proposed adjustment to the GA management fee:
>
> a. Is it ORS’s position that GA does not perform the services as set forth in its management agreement with DIUC?
> **RESPONSE: No.**
>
> b. Is it ORS’s position that the management services performed by GA are not necessary for the operation and management of DIUC?
> **RESPONSE: No.**
>
> c. Is it ORS’s position that GA is not qualified to perform the management services?
> **RESPONSE: No.**

Response to Company’s First Set of Interrogatories and Requests for Production to ORS at #8, Hearing Transcript, Hearing Exhibit 10.

Neither ORS nor Intervenors presented any performance analysis or any review of the events and issues faced by DIUC since it was acquired from Haig Point, Inc. in 2008. The Company, on the other hand, provided the Commission with a comprehensive Report on Capital Improvements that includes information regarding the very unusual problems faced by the Company and how those problems were addressed by GA pursuant to its management agreement. *See* Hearing Transcript, Hearing Exhibit 9. In the original hearing, neither ORS nor Intervenors performed any analysis to evaluate whether the GA’s management fees are competitive or whether DIUC could have obtained management with the same level of expertise as provided by GA at a lower cost. On the other hand, the record provides the following, as obtained from Mr. Guastella’s testimony and exhibits, regarding the work of GA for DIUC:



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- The hiring of GA was required in the settlement with an intervenor for the purchase of the stock of HPUC from Haig Point, Inc. to assure that DIUC would have competent management. *See* Hearing Transcript at 213.

- GA directed the transition for the HPUC acquisition as well as the merger of MUC, improving records, billing and operations. *See* Hearing Transcript, Hearing Exhibit 7.

- GA managed the operations despite an immediate 25% annual shortfall of revenues because of MUC's failure to pay its share of the jointly owned wastewater treatment plant. *See* Hearing Transcript, Hearing Exhibit 7.

- GA directed the operation of MUC, when its owners abandoned the utility operations and filed for bankruptcy in order protect the MUC's customers from interruption of water and sewer service, without compensation and despite DIUC's cash shortage. *See* Hearing Transcript at 214.

- GA undertook an extensive effort over about a three year period trying to obtain financing, including about 15 months after the 2012 rate increase, without which it would have been nearly impossible to continue to provide adequate service. GA's expertise in preparing qualified appraisals and rate setting were critical in obtaining approval of financing. *See* Hearing Transcript at 220.

- GA worked with the president of DIUC to use his contracting firm to make temporary repairs to the failed wastewater lagoon liner, when there were insufficient funds to pay for the improvements. *See* Hearing Transcript, Hearing Exhibit 7.

- GA's expertise in appraisals, valuation and condemnations were beneficial in dealing with the condemnation of the land at the storage tank site. *See* Hearing Transcript at 220.

- GA saved DIUC and its customers over $350,000 in property taxes and another $100,000 in present value savings related to the 8 year payment agreement. *See* Hearing Transcript at 213 and Hearing Exhibit 7.

- GA's administration and supervision of the capital improvements saved DIUC and its customers as much as $400,000 in construction costs, as well as significant savings for the Fire Department for the construction of a helipad. *See* Hearing Transcript at 173.

- GA has been complimented by DHEC for its cooperation and efforts to make improvements, and its thorough communications with DHEC that are not typical. A corrective action plan prepared by GA was approved by DHEC within hours of submittal. *See* Hearing Transcript at 215, and Hearing Exhibit 8.



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- GA's stated priority has been to provide adequate service to DIUC's customers. The owners have not been paid a dividend to date, and GA is owed thousands of accrued payments because cash flow is always first used to operate the water and sewer systems. Mr. Guastella noted that past due accounts payable to GA will eventually be paid by the owners not the customers. *See* Hearing Transcript at 141 and 247.

It is apparent that without the management agreement with GA, the Company would have to hire employees or another firm to perform these services, and it is not a given that such options would provide the same qualifications and experience of the GA personnel.

In the original proceeding, the POAs opposed the requested management fees; however, they still have not proposed a specific dollar adjustment for management fees. Mr. Lanier did vaguely state that he "would support any reductions in expenses proposed by the ORS staff," without providing any rationale, standard, or benchmark for any such reduction. *See* Hearing Transcript at 435. Mr. Lanier also accuses the Company of not being operated in the most efficient and economical fashion, claiming it has had such "major lapses" in its operations as sale of the storage tank parcel and increase in property taxes. [3] *See* Hearing Transcript at 421. However, the record does not support a finding of a failure of management with respect to Mr. Lanier's claims. Mr. Guastella's testimony establishes that, as manager of the Company, GA acted in a reasonable, diligent, and timely manner to each of the items mentioned by Mr. Lanier.

Attempting to bolster the position taken by Ms. Gearheart in the previous hearing, ORS witness Hipp for the first time ever raised the issue of checks and balances in the GA management agreement. In her rehearing testimony, Ms. Hipp states: "In addition, it is ORS's position that the management agreement lacks sufficient checks and balances to protect DIUC, its parent company

[3] As discussed below, Ms. Hipp also attempted to blame GA for Beaufort County's lapses regarding its tax notices and postings. These issues were beyond the control of DIUC's management.

and its ratepayers from decisions made by its vendor, GA." Rehearing Transcript at 477-478. Ms. Hipp then goes on to cite the tax sale of the Elevated Tank Site, which DIUC has repeatedly explained did not occur due to any fault of the Utility or its management. This "checks and balances" argument is not persuasive. The ultimate check of course is the Utility's right to terminate the Management Agreement for cause if GA has failed to perform and to cure any deficiency in performance.

Ms. Hipp also presented Rehearing Exhibit DMH-5, which she asserted "indicates the dollar amount of management fees requested by DIUC are in excess of what other similarly situated investor-owned water and wastewater utilities pay for similar services." Rehearing Transcript at 478. However, if this Commission is to make a comparison between utilities for the basis of a ratemaking decision, the party proposing the comparison must provide enough facts for this Commission to prepare an order that is "sufficiently detailed to enable the reviewing court to determine whether the findings are supported by the evidence and whether the law has been properly applied to those findings." *Heater of Seabrook, Inc. v. Pub. Serv. Commn. of S.C.*, 503 S.E.2d 739, 742 (S.C. 1998) citing *Able Communications, Inc. v. South Carolina PSC*, 290 S.C. 409, 411, 351 S.E.2d 151, 152 (1986).

When pressed by DIUC in discovery about the factual basis for its proposed comparison, ORS responded to the Applicants' Second Set of Interrogatories and Requests for Production by identifying only four incredibly basic points of comparison between DIUC and those utilities ORS asserts are "similarly situated."

> **Interrogatory 9.**
> The witness testifies on page 8 regarding Exhibit DMH-5 that "ORS's analysis as presented in Rehearing Exhibit DMH-5 indicates the dollar amount of management fees requested by DIUC are in excess of what other similarly situated investor-owned water and wastewater utilities pay for similar services." The Exhibit then references Harbor Island Utility and Kiawah Island Utility.



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a. Please define the term "similarly situated" as it is employed by the witness.

**ORS Response to 9a:**
ORS considered the following characteristics to determine if an investor-owned water and wastewater utility is "similarly situated" to DIUC:

1) Under the jurisdiction of the SC PSC
2) Provided water and wastewater service
3) Provided service in a SC coastal area and/or island
4) Obtained day-to-day maintenance, operations and customer billing services through a management agreement with a third-party entity.

ORS Responses (11-28-17, Docket Entry #273267). ORS provided no further factual testimony or information to support its comparison. ORS made no attempt to analyze the management services that GA has provided versus those provided by the management of Harbor Island Utility ("HIU") or Kiawah Island Utility ("KIU"). Additionally, ORS failed to consider or account for the challenges faced by DIUC or its location on an island accessible only by boat. ORS did not prove that DIUC is substantially similar to HIU and KIU, nor that the services provided under their management agreements are substantially similar to those of GA, nor the challenges and conditions of the three utilities are substantially similar. ORS's conclusory statements and failure to more fully develop this position are fatal to ORS's ability to rely upon it. Additionally, we are also hesitant to rely on these newly asserted grounds when they were for the first time presented to the Applicant on rehearing.

The shortcoming of ORS's attempted comparison is explained by Mr. Guastella's rehearing rebuttal testimony regarding the differences between DIUC and HIU and KIU. First, Mr. Guastella notes that HIU and KIU are not comparable to DIUC "just because they both provide water and wastewater service and are regulated by this Commission." Rehearing Transcript at 16. He then goes on to provide the only substantive factual analysis in the record beyond the obvious



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fact that these entities are regulated utilities with an outside management contract. Mr. Guastella explained:

- HIU only has about one-tenth of the cost of DIUC's utility assets, it has no wells, no water treatment plant, and it is accessible by roadway-bridge.

- KIU has no source wells, no treatment plant, and only one wastewater plant, compared to DIUC's operation of 7 wells outfitted with water treatment and pumping as well as ongoing operation by DIUC of two wastewater treatment plants.

- KIU has about ten times more customers than DIUC over which to spread costs.

- KIU's management fees are not limited to the $365,095 shown in Rehearing Exhibit DMH-5. That $365,095 amount is the amount affiliated corporations allocate to KIU, but day-to-day management of KIU is also provided by its direct, full-time employees. Those employee costs are not included in the amount Ms. Hipp is attempting to compare.

Rehearing Transcript at 97-98.

With respect to the amount of GA's fees in comparison to other utilities, Mr. Guastella also provided a schedule comparing the costs per customer of DIUC with municipal water and sewer utilities in South Carolina. *See* Hearing Transcript, Hearing Exhibit 8. Unlike Ms. Hipp, however, Mr. Guastella thoroughly explained the facts that support the comparison and those that must be included for this Commission to see the importance of the comparison to this matter. Mr. Guastella explained that the data must first be adjusted for taxes and cost of capital in order to compare the cost of operations on an equal basis. Hearing Transcript at 215-216. He further demonstrated that after these adjustments, DIUC's cost per customer is lower than four of the eight utilities, even though the cost per customer should be considerably higher because DIUC has a much lower number of customers. *Id.*

Also, DIUC is on an island accessible only by boat, which makes the cost of even the most basic operations more expensive. *See* Transcript at 216. Even DIUC customers, like Mr. James



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Woodward, acknowledge the impact of access to the island; he testified at the public hearing on September 15, 2015 that:

> Our members and our Haig Point residents already bear substantial costs for the pleasure, granted, of living on a private island. Building costs here, service costs, everything like that, you're just gonna' tack on 20 percent. I just got a quote recently from another company that said, "Here's a quote that I normally do this job for, but on Daufuskie Island we triple it."

Mr. Guastella's testimony and exhibits as to GA's qualifications and performance in managing DIUC and the competitive level of its fees and charges are persuasive. Additionally, no witness for ORS --at the original hearing or at rehearing-- ever identified the services that were performed at the time of the last rate case in 2011 in order to demonstrate a lack of increased management activities since the 2011 rate case. We also acknowledge the unique location of this utility and the impact that has upon the costs of doing business, as explained by Mr. Guastella in his original testimony and during the rehearing.

In the original proceeding ORS also requested that "GA's management fees be limited to the previously Commission-approved amount of $132,211 a year." Hearing Transcript at 493. However, the management fee of $132,211 was not a "Commission-approved" management fee in the previous case, as asserted by ORS. DIUC's last rate case, Docket No. 2011-229-WS, Order No. 2012-515, was settled by agreement of DIUC, ORS and the Intervenors (the same Intervenors in this case). Neither the settlement agreement in that case nor the Commission's approval of it mentions the management fees or the amount of $132,211. Additionally, even if the fees were incorporated into a previous PSC Order, the Commission cannot reach back into a previous case for the lone support of a ruling in a later case. As the Supreme Court has explained, figures from past test year(s) are only probative, if at all, as a starting point for analysis by the Commission. The discussion below explains the rule.



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> Utility argues, however, that the PSC used Utility's recent rate increase as part of its justification for denying the current rate application. To the extent the PSC did so, this was error. Cf. Heater of Seabrook II, 332 S.C. at 29, 503 S.E.2d at 743 (finding it was "inappropriate" for the PSC to rely in a 1997 order on its reasoning in a 1992 order granting an increase to the same company because "this order . . . was based on evidence, and a prior test year, completely different from [the utility's] financial condition at the time of the current application."). The PSC must not use the simple fact of a recent rate increase as a reason to deny a utility's rate application. ***An application for a rate increase must stand or fall on its own merits.*** A recent rate increase provides only a starting point for determining whether a utility's rate base or expenses have increased, such that additional revenues are required.

*Utils. Servs. of S.C. v. S.C. Office of Regulatory Staff*, 392 S.C. 96, 115, 708 S.E.2d 755, 765 (2011) (emphasis added).

In violation of this principle of law, ORS alleges that there were no increases in the management services provided by GA, but ORS fails to provide any actual analysis of what services were provided at the time of the last rate case or in the present. ORS appears to be confusing the scope of services under the GA Management Agreement, which may not have changed, with the actual services performed, which well may have changed. There is no "starting point" from which ORS's analysis proceeds and therefore the conclusion fails. See *Utils. Servs. of S.C. v. S.C. Office of Regulatory Staff*, 392 S.C. 96, 115, 708 S.E.2d 755, 765 (2011). Second, there was no proof that the services Guastella Associates provided were identical to those provided before the last rate case. Finally, Mr. Guastella provided proof of new projects and efforts in a report that described extensive services provided since the last rate case related to the repair, maintenance, and upgrade of the Utility, and its efforts to address new and unique issues that reduced property taxes and made improvements to the water and sewer systems that were praised by DHEC. The DIUC Report on Capital Improvements provides a detailed history of DIUC and its predecessor entities and it highlights the multitude of complex issues inherited by DIUC which



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has been dedicated to solving these problems while maintaining reliable and safe services. *See* Hearing Transcript, Hearing Exhibit 7. The reliable, probative, and substantial evidence demonstrates the work has been performed in order to make improvements essential to provide adequate service to the customers and complying with environmental regulations. The requested management fees should be allowed.

Because DIUC and Guastella Associates are not affiliated, DIUC's expenditures for management fees are presumed reasonable and incurred in good faith. A utility in a ratemaking proceeding is "entitled to a presumption that its expenditures were reasonable and incurred in good faith." *Utils. Servs. of S.C. v. S.C. Office of Regulatory Staff*, 392 S.C. 96, 109, 708 S.E.2d 755, 762 (2011). "This presumption does not shift the burden of *persuasion* but shifts the burden of *production* on to the Commission or other contesting party to demonstrate a tenable basis for raising the specter of imprudence." *Id*. (Emphasis added.) DIUC is entitled to this presumption with regard to the GA fees totaling $171,364, as submitted. The record contains nothing to suggest the GA-DIUC agreement is not proper.

Mr. Guastella testified at length about the management agreement and how it was negotiated:

> Our management fee was an arm's length negotiation … when the CK Materials people were thinking about acquiring the utility from International Paper, they came to me and asked if I would help them with that acquisition. They came to me because International Paper recommended that I help them acquire the utility system. In order for me to do – once I helped them with the acquisition, I was asked whether or not I would then manage the utility, because they really didn't know how to do that. So I entered into an arm's length agreement with what was then the Haig Point Utility, which we had to change the name to Daufuskie Island Utility at the request of the homeowners and the owners of Haig Point Utility, and I worked up a management agreement that includes all the duties and functions that Guastella would perform on a day-to-day basis.



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Hearing Transcript at 170-171. *See also* Rehearing Transcript at 168 (Guastella testifying "I drafted an agreement; they reviewed the agreement. I think there were some back-and-forth on the provisions. And that's how the agreement came about.").

There is nothing in the record to dispute this testimony or to provide even an arguably tenable basis for raising the specter of imprudence. *See Utils. Servs. of S.C. v. S.C. Office of Regulatory Staff*, 392 S.C. 96, 109, 708 S.E.2d 755, 762 (2011). As such, DIUC is entitled to and the Commission will apply the required presumption that the GA fees totaling $171,364 as submitted expenses are reasonable and incurred in good faith.

The Commission finds the requested amount of $171,364 to be reasonable and justified. We find no basis for reducing the Company's proposed management fees. The evidence supporting this finding, that the management of DIUC's operation under the management agreement with Guastella Associates, LLC has been more than adequate, particularly given the challenges faced by the Company, and the management fees in the amount of $171,364 are reasonable and may be recovered, is based upon the Application and testimony of witnesses Guastella, Gearheart, Hipp, and Lanier.

**Rate Case Expenses**

In accordance with the Supreme Court's instructions, DIUC presented additional evidence in support of its request for rate case expenses. This additional evidence was to supplement the Application and original hearing testimony. *See* Guastella Rehearing Testimony at 7 ("I submit herewith additional evidence related to DIUC's rate case expenses because this evidence adequately reflects the current economic realities facing DIUC. DIUC proposes the Commission incorporate that evidence into its forthcoming order.").



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Mr. Guastella's Rehearing Testimony began by summarizing DIUC's rate case expense evidence, what transpired in the original proceeding, and then what happened as the appeal and remand process continued.

> Rate case expenses are a necessary cost of operating any utility, but it is essential to note that the cost of a rate case has significant financial impact on a small utility like DIUC. As I testified in the primary case, the rate case procedures and discovery required of DIUC in this matter were equal to those for a large utility. The parties participated in exhaustive discovery prior to the hearing. DIUC was required to respond to in excess of 150 discovery requests (exclusive of multiple subparts), review the direct testimonies of nine witnesses, prepare rebuttal testimony and surrebuttal testimony, and prepare for the hearing on the Application. A larger utility with larger revenue and more staffing would be better equipped to absorb the high costs of extensive discovery and other proceedings, but DIUC cannot. As with the other adjustments, DIUC relies upon and incorporates its previous filings and testimony. At the time of the hearing I estimated that the actual rate case expenses to date were about $380,000. However, DIUC's Application included only $191,200 in an effort to mitigate the impact on ratepayers. ORS responded by proposing an even further adjustment that allowed only $97,500 for rate case expenses. As shown in detail through DIUC's evidence, particularly my unrefuted rebuttal testimony, the rate case expenses incurred were actual, unavoidable, and reasonable in the circumstances.

Rehearing Transcript at 70-71.

Mr. Guastella also testified about the increased rate case expenses necessitated by the appeal and subsequent remand proceedings.

> DIUC's appeal of Order 2015-846 added another layer of significant rate case expense, which continues to grow as the current rehearing process proceeds. In order to survive, DIUC had to put appropriate rates in effect pending appeal. This required DIUC to obtain bonds, which first had to be presented to and approved by the Commission. The bonds later had to be renewed and an additional bond obtained. These efforts cost the Utility significant and unavoidable legal and consulting charges in addition to the cost of bonds. At this point, the cost of actual rate case expenses as of September 30, 2017, including projections to complete the rehearing process for legal and consulting services totals $794,201.17, plus the $60,781.56 DIUC incurred for the bonds and an associated letter of credit.

*Id.* at 76.



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As DIUC suggests, the Supreme Court's decision in this matter encourages the Commission to consider dynamic factors as they are present in a rate proceeding. *See Daufuskie Island Util. Co., Inc. v. S.C. Off. of Reg. Staff*, 803 S.E.2d 280, 286 (S.C. 2017) (finding the parties should not be bound to evidence presented at the initial hearing, as it "may no longer be indicative of the current economic realities on remand"). Furthermore, because the Applicant's appeal resulted in a reversal and remand of Order 2015-846, the Commission is mindful that it should be particularly attentive to the costs incurred by the Utility related to the rate case and appeal in this matter.

At the original hearing, ORS proposed that rate case expenses should be capped at $97,500 and encouraged the Commission to refuse DIUC's willingness to accept $191,200, even though it was less than DIUC's anticipated $380,000 actual rate case expense. ORS based this position upon the testimony of Ms. Gearheart who proposed the costs be amortized over five years. *See* Hearing Transcript at 494. Order 2015-846 adopted the ORS adjustment which allowed DIUC to recover only $75,000 for rate case expenses in the original proceeding initiated in 2014; the remaining $22,500 proposed by ORS and adopted by Order 2015-846 covered unamortized rate case expenses from the previous 2011 rate case. *See* Hearing Transcript at 495. Given the facts and circumstances in the record, including the extensive work evidenced by DIUC's briefing before this Commission for reconsideration of Order 2015-846 followed by what was ultimately a successful appeal for the Utility, the Commission intends to carefully examine the issue of rate case expenses, many of which could have been avoided but for the provisions of the Settlement Agreement that ORS and POAs endorsed as the basis of Order 2015-846.

Bearing in mind the circumstances of the proposed then adopted Settlement Agreement provided to this Commission by ORS and Intervenors, the Commission is not surprised by DIUC's



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position that on rehearing it should not be required to absorb rate case expenses, as it was willing to do prior to the appeal and remand. *See* Rehearing Transcript at 78. As explained by Mr. Guastella, the appeal has resulted in significant hardship to the Utility. First, "DIUC's only source of obtaining outside financing, SunTrust Bank, has not been willing to refinance the existing loans and provide needed funds for capital improvements until the final rates are approved in a reasonable amount." *Id.* Second, DIUC produced correspondence from SunTrust Vice President Carol Coppola, as Exhibit JFG-4R, demonstrating SunTrust had communicated it will offer no additional credit until this rate case is resolved. *Id.* Given all the testimony in the record (both in conjunction with the original hearing and the rehearing) about the need for capital and system repairs and upgrades, the delays and costs incurred as a result of the appeal have impacted how DIUC is able to operate. Finally, we note that the rate case expense presented totaling $794,210, plus the $60,782 paid by DIUC for appeal bonds, demonstrate, as Mr. Guastella testified, that "DIUC's total rate case expenses has reached a magnitude that is far too disproportionate to its revenues" such that the Utility cannot offer to absorb a portion of the costs as it did in the initial proceeding. Rehearing Transcript at 78.

In support of its rate case expenses DIUC also provided "a schedule of monthly charges incurred by DIUC to prepare and pursue this rate case, plus the cost of the bonds. The schedule includes projected future costs to complete the anticipated rehearing process, assuming there are no further appeals." *See* Guastella Prefiled Rehearing Testimony and Exhibit JFG-3R. In response, "ORS requested DIUC provide detailed invoices and other documentation to support all rate case and bond cost expenses incurred since August 11, 2015, for which the Company is seeking recovery." Hipp Revised Rehearing Testimony at 3. Based upon its review of the invoices, ORS concluded that DIUC should only be allowed to recover $272,382 of the requested



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$794,210 of rate case expenses over a five year amortization period. *Id*. at 7-9. According to Mr. Sullivan's testimony, the $272,382 includes $97,500 as taken from Audit Exhibit ICG-4 provided by ORS witness Ivana Gearheart in the primary case and $177,882 for additional legal costs, bond premiums, and letter of credit fees associated with the appeal. The ORS allowance, then, is $97,500 + $177,882 equaling the total ORS proposed allowance $272,882. This allowance excludes $542,978 of GA billings, based upon ORS's position related to the invoices submitted by DIUC to document the costs.

To arrive at the conclusion that GA's invoices and costs should be *completely* disregarded, ORS witness Hipp testified that the GA invoices provided for rate case expense:

> … contain mathematical errors; do not contain sufficient detail to describe the work performed, the specific dates and hours of work, employee name, and business purpose; contain expenses such as air fare, lodging, and meals for which no detail or receipt was provided; and, do not appear to be paid by DIUC.

Hipp Revised Rehearing Testimony at 6. DIUC responded through Mr. Guastella's rebuttal testimony and addressed each of these points as follows:

- **ORS bullet point "Contain mathematical errors."** That is all it says – "contain mathematical errors." Ms. Hipp does not identify any specific bill(s) that contain a mathematical error.

- **ORS bullet point "Do not contain sufficient detail to describe the work performed, the specific dates and hours worked, employee name, and business purpose."** GA has worked for about 600 different utilities over the 55 years of Mr. Guastella's work in the industry. Throughout that time GA's monthly billing descriptions have been the same; these descriptions have been used for DIUC as well as all other GA clients and no regulatory agency has ever raised any question about the amount of detail included in the invoices. Having provided these invoices to over two dozen regulatory agencies in the hundreds of rate cases in which GA has provided consulting services, I was shocked to see this testimony by Ms. Hipp. GA's invoices provide (and always have) a summary description of the specific work performed, the hours worked by the title of the individual performing the work and the hourly rates and amounts for each, along with the total amount of the bill. These invoices are routinely provided to and accepted by regulatory agencies. For example, in response to discovery in the primary case, copies of GA's billings were provided to ORS, and ORS did not express any concern about their format or



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the information provided. ORS never asserted any complaint or criticism about the content of the invoices. After DIUC provided copies of GA bills to ORS via discovery in this rehearing phase, there was no follow up request for more detail or any concern raised about the need for more detail. Instead, without any notice ORS suddenly declared GA's invoicing insufficient.

There has never been a reason for GA to think the detail of its bills was a problem, not for previous billings to DIUC and not for previous billings for similar rate case work GA provided to Kiawah Island Utility as recently as the 2011 rate application by Kiawah Island Utility. In that case GA's bills were in the exact same format as these invoices for DIUC, and no issue was raised by ORS in that case.

- **ORS bullet point "Contain expenses such as air fare, lodging, and meals for which no detail or receipt was provided."** Once again, GA bills to DIUC are in the same format as those for all other GA clients. The travel expenses are typically detailed by date(s) of travel, whether for air fare, ground transportation, and room and board. I cannot remember a client who has ever demanded our travel invoices. Any time we travel for clients, they know the reason for the travel; in fact, we rarely travel except for hearings or major case events. And again, ORS has never before asked for GA travel documents in addition to invoices for billings to DIUC or to Kiawah Island Utility when GA performed rate consulting services for that utility.

It is also important to note that there are only a couple of GA bills that reflect travel expenses totaling some $5,634, including the $4,532 for the cost of three GA employees to appear in Columbia for the rate hearing. Knowing the date of the hearing and the GA personnel in attendance, it seems logical that ORS professionals could evaluate the reasonableness of those travel expenses as reflected on the invoices billed to DIUC. As previously noted, ORS has required DIUC to supply many, many discovery responses. ORS could have simply requested additional information, rather than waiting to surprise DIUC with this "gotcha" position at rehearing.

- **ORS bullet "Do not appear to be paid by DIUC."** Ever since 2008 when DIUC was acquired from Haig Point, Inc. there have been repeated occurrences that created major cash flow shortages in response to which the owners and GA have made it a priority to use available cash to provide service to the customers, with charges by GA accrued instead of being paid on a current basis. Delayed payments that create accounts payable do not mean that costs are not incurred and/or the costs are not allowable for rate setting purposes.

Rehearing Transcript at 87-89. At the rehearing on December 6, 2017, Mr. Guastella further defended the invoices from GA:



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> But all the costs and all of our charges, we keep track of our hours, and each month we set forth the hours, a summary of the work we did, the position of the employee in Guastella Associates who performed the work, and provide invoices that reflect our actual costs and our actual time to undertake this process. Guastella Associates' time represented by that is over 2000 hours for a rate case.

Rehearing Transcript at 38.

While the Commission understands ORS wishes to document DIUC's rate case expenses, this extreme position that excludes every single GA invoice is troubling. First, it defies the facts which clearly indicate GA provided services including answering a significant number of discovery responses (all of which were verified for DIUC in this case by Mr. Guastella), preparing prefiled testimony by GA employees Guastella and White, travel to the original hearing to provide live testimony by GA employees Guastella and White, prefiled rehearing testimony by GA employees Guastella and White, and rehearing live testimony by GA employees Guastella and White. Second, it is this kind of unsupported overstatement that resulted in the Settlement Agreement rejected by the Supreme Court. Third, the Commission is troubled by DIUC's assertion that ORS for the first time raised these issues just days before the hearing on remand, more three years after the initiation of this rate proceeding.

Ms. Hipp did testify at the rehearing regarding the invoices explaining that if ORS and the Applicant had more time before the hearing then ORS would have allowed the applicant to provide support for these costs. Rehearing Transcript at 520. Although expedited, the schedule for rehearing in this matter allowed for ORS to confer with the Applicant; ORS just chose not to and to provide the Commission with an extreme "take it or leave it" approach which is not a realistic option for the Commission.



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We have reviewed the invoices in question, which were included in Exhibit DMH-1[4] and find them sufficient to document the asserted costs. Furthermore, the testimony of Mr. Guastella addressed the questions raised by Ms. Hipp. Lastly, we cannot deny the Utility recovery for costs that we know were undertaken and completed. Neither can ORS whose witness Dawn Hipp testified:

> Gressette:
> And so, if I understand your surrebuttal testimony, you did state on page four that Guastella Associates performed services in this rate-case proceeding, but ORS is not allowing any recovery.
>
> Hipp:
> I did make that statement, yes.

Rehearing Transcript at 505.

Each of the invoices from GA include time entries identified by the title of the personnel billing the time. A few early invoices refer to: "Principal" and to "Director-Financial/Accounting" while the later invoices identify the billers as "President" and "Vice President–Financial/Accounting." *See* Rehearing Exhibit DMH-1. These titles are sufficient to identify Mr. Guastella and Mr. White, both of whom have testified before this Commission and provided their job descriptions and titles to this Commission. *See* Hearing Transcript at 134 (John Guastella testifying he is President of Guastella Associates) and Hearing Transcript at 119, 123 (Mr. White testifying "I am Vice President and the Director of Accounting with Guastella Associates, LLC a firm that provides utility consulting services primarily for municipal and investor-owned water and wastewater utilities."). Both gentlemen have appeared before this Commission twice in this case to provide expert testimony on behalf of the Applicant. It is improper to deny recovery for

[4] Exhibit DMH-1 is confidential and, as such, the Commission is mindful of the protection it is to be provided.



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work ORS and the Commission itself witnessed, particularly live testimony; it is also clear from that testimony that the witnesses spent significant time working on this case and preparing their testimony.

The Commission is troubled by the fact that disallowance will reward ORS for not previously raising the issue or providing DIUC a fair opportunity to respond. ORS admits it did not allow DIUC to provide additional information about the rejected $542,978 but that ORS usually engages an applicant to allow additional information to be provided in response to ORS questions about verification of charges or invoices. Ms. Hipp explained how DIUC was treated differently which resulted in the exclusion of every single rate case expense invoice from GA:

> In the case of this rehearing, the invoices that we received came to us, and we had such a short time period in order to examine them and make decisions, to meet the deadlines that the Applicant had asked for, that there wasn't that give-and-take. But in a normal rate case, we do have the luxury of having several months to go back and forth with the company, to make sure we thoroughly understand the expenditures for which they're seeking recovery.

Rehearing Transcript at 520. ORS's extreme position has left the Commission in a unique situation.

Based upon the record, the Commission finds that DIUC is entitled to recover $156,656 for rate case work performed by GA. This amount is slightly less than one-third of the total amount of invoices rejected by ORS. The Commission is certain that GA has performed, and its billings evidence, at least that amount of rate case work; as such, it should be recovered by DIUC. That leaves outstanding DIUC's request for repayment GA's other costs for rate case expenses. The Commission is not ruling on or offering any decision on those costs or their documentation at this time. Those requested rate case expenses shall be carried over to the next rate proceeding. The Commission is hopeful that prior to DIUC's next rate proceeding, ORS will engage in its usual and customary "back and forth with the company, to make sure [ORS] thoroughly understand[s]



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the expenditures for which [DIUC is] seeking recovery." *See* Rehearing Transcript at 520.

The Commission also agrees that the Utility's requested three year period of amortizing rate case expenses is appropriate. As Mr. Guastella testified,

> Using a five-year amortization ignores the history of DIUC's rates. DIUC's last rate case was decided in July of 2012, three years before this rate application was submitted in June of 2015. DIUC will certainly need another rate filing within 3 years, or more likely two years, in order to cover the costs associated with utility plant additions that have been delayed because of an inability to obtain financing from SunTrust until this rate case is finally decided.

Rehearing Transcript at 92.

Accordingly, the rate case expenses recoverable in this proceeding include $407,918 in legal and consulting fees plus $60,782 for bond costs for a total of $468,700 and the amortization period will be for three years. This conclusion is based on the Application, the evidence before the Commission, and the testimony of Mr. Guastella, Mr. White, Ms. Hipp, and Mr. Sullivan.

**Deferral of Certain Rate Case Expenses Until Next Rate Proceeding**

The Rate Application that initiated this proceeding included a revenue requirement of $2,267,721, which is a 108.9% increase over the rates authorized pursuant to the last petition for rate adjustment. *See* Application; *see also* Rehearing Testimony of Guastella at 17. After appeal and remand to the Commission, the Applicant provided testimony that the "current economic realities following remand as the Utility awaits rehearing" indicate "the revenue requirement is $2,423,049, which is a 125.7% increase over the rates authorized pursuant to the last petition for rate adjustment." *Id.* at 16. This revenue requirement is reflected in Exhibit GCW-R1, page 10. To keep the final rates within the Application's original 108.9% increase, DIUC proposes and the Commission agrees it is reasonable to leave outstanding GA's other requested rate case expenses. Because of a minor adjustment to the level of revenues that would be generated under the original



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existing rates, the 108.9% rate increase will generate $2,242,719 in revenues. The Commission is not ruling on or offering any decision on those costs or their documentation at this time.

This conclusion is based on the Application, the evidence before the Commission, and the testimony of Mr. Guastella, Mr. White, Ms. Hipp, and Mr. Sullivan.

**Bad Debt Expense**

The Supreme Court ruled that "the Commission erred in awarding only $30,852 to cover [DIUC's] bad debt expense because all the evidence in the record establishes DIUC's bad debt expense exceeds $100,000." *Daufuskie Island Util. Co., Inc. v. S.C. Off. of Reg. Staff*, 803 S.E.2d 280, 288 (S.C. 2017). In response, ORS presented the rehearing testimony of Mr. Sullivan in which he asserts:

> Based on guidance from South Carolina Supreme Court Opinion No. 27729, ORS computed an adjustment to bad debt expense for the rehearing proposed increase using the methodology and percentages used to calculate the adjustment on Audit Exhibit ICG-4. ORS applied a bad debt percentage of 9.82% (rounded) to the Company's rehearing proposed increase to calculate an adjustment to bad debt expense of $116,056.

Sullivan Rehearing Testimony at p. 12 (discussing Adjustment 21). In support of its position on the appropriate adjustment for Bad Debts, DIUC submitted its Responses to Intervenors' discovery which included on pages 27 and 28 actual collections information and bad debt information for the time period of 07/01/2016 through 06/30/2017. During this period DIUC collected rates under bond at the applied for 108.9% increase. A review of this evidence demonstrates that the ORS proposed allowance of 9.82% for Bad Debt is appropriate if applied to the rates permitted by this Order. Based upon the testimony of Mr. Sullivan, Mr, White, and Mr, Guastella, the Commision finds applying 9.82% for Bad Debt to this Order's permitted revenue of $2,242,719 results in a Bad Debt allowance of $220,173, which the Commission approves.



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**The POAs' Positions on Rate Base**

In prefiled testimony prior to the original hearing, the POAs asserted the Commission should totally recalculate DIUC's accumulated depreciation by applying a misguided understanding of how utilization factor ("UF") is relevant to DIUC's system. *See generally* Rehearing Transcript at 286-382. POA witness Mr. Loy proposed that UF is meant to reflect the fact that a water-sewer system either has not been completely built out or is not fully utilized in providing service. *Id.* *See also* Transcript at 207-208 (Guastella discussing why the POAs' positions as to UF are flawed). The POAs also asked the Commission to apply UF as if it were the same thing as identifying "non-used" portions of plant. Even POA expert Loy admitted that the assets in question were used and useful. The UF is applied to the depreciation rate of certain assets and has nothing to do whether the asset is in service. The POAs' assertions about UF are based on a fundamental misunderstanding about UF, not supported by the evidence, and render their recommendation to this Commission to use apply UF to the reduce rate base untenable.

Again endorsing two major adjustments with respect to rate base, at rehearing the POAs asked the Commission to reduce rate base by imputing Contributions in Aid of Construction ("CIAC") based on the presumption that the real estate developer originally intended to contribute all of the Utility Plant in Service to the Haig Point Utility Company. Alternatively, if that proposal is not accepted, the POAs have a fallback position asserting the DIUC's plant (meaning the "facilities owned by the utility for the collection, production, purification, storage, transmission, metering, and distribution of potable water" per 10 S.C. Code Ann. Regs. 103-702.16) are somehow not entirely used and useful to provide service to DIUC's customers.

At the outset we note that accepting either of these positions will result in an extreme reduction to the rate base and revenues of DIUC. This is curious given the POAs' previous

settlements wherein the POAs agreed to rate base and revenues higher than what they now assert should be ordered. In other words, the Commission is suspect that if these positions were valid, the POAs would not have abandoned them for the significantly higher amounts in the previous two settlements. For comparison, in 2012 the POAs settled their intervention claims for an agreed rate base of $5,000,000 and total annual revenues of $1,058,903. *See* Order 2012-515. Then, more recently in this case in the Settlement Agreement, the POAs abandoned their extreme position agreeing instead to a total rate base of $4,962,927 and total operating revenues of $1,536,375. *See* Hearing Exhibit 3. Now, at rehearing, the POAs propose it is appropriate for the Commission to slash rate base to only $2,304,944 with total operating revenue to be dramatically reduced to $1,293,561, which is less than the Utility has been collecting.[5] *See* Rehearing Transcript at 359 – 362 and Exhibit LML-R3, Schedule C-4. The POAs argue DIUC should be making less money than what the POAs agreed to in the last case, even though the unrefuted testimony indicated DIUC is struggling to survive under its current rates and that the POAs' proposed revenue will not allow DIUC to pay its taxes.

If this Commission were to accept either of the current POA proposals, it would also require this Commission to assume that DIUC will be able to: (1) convince the Department of Revenue to accept this new position that the value of DIUC's utility property is much, much lower; (2) pursue a statutory procedure in hopes of obtaining refunds of previous taxes; and (3) persuade Beaufort County to renegotiate its previous agreement as to repayment of Utility Property Taxes, despite the fact that the Beaufort County Treasurer has testified unequivocally that its agreement

[5] The Intervenors' "CIAC proposal" results in a rate base of $2,304,944 and a revenue requirement of $1,293,561, producing in an overall rate increase of 20.5%. *See* Exhibit LML-R3, Schedule C-4. The Intervenors' "system utilization proposal" for depreciation results in a rate base of $2,283,657 and a revenue requirement of $1,343,077.



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with DIUC will not be renegotiated. The Commission directs the POAs to the following excerpt from the Supreme Court's decision prior to remand in this case:

> Moreover, the Commission's suggestion that DIUC may be able to reduce its tax liability by renegotiating with Beaufort County in the future is purely speculative, especially in light of Walls' testimony indicating the County would not be willing to amend the terms of the settlement agreement.

*Daufuskie Island Util. Co., Inc. v. S.C. Off. of Reg. Staff*, 803 S.E.2d 280, 287 (S.C. 2017). The POAs will not convince this Commission to rule in direct contradiction to the Supreme Court. In fact, the POAs' request that we do so demonstrates their positions cannot possibly be endorsed by the Commission without setting up what will surely be another expensive but successful appeal by the Applicant.

Accepting either of the POAs' positions would also result in further adjustments to rate case expenses, bad debts, and management fees along with other significant "fallout" reductions to the other revenue components. The POAs' "CIAC proposal" results in a rate base of $2,304,944 and a revenue requirement of $1,293,561, producing in an overall rate increase of 20.5%. *See* Exhibit LML-R3, Schedule C-4. The POAs' alternative "system utilization proposal" for depreciation results in a rate base of $2,283,657 and a revenue requirement of $1,343,077, resulting in an overall rate increase of 25.1%. *See* Exhibit LML R-4, Schedule C-4. In considering both POA proposals, the Commission must account for the impact upon DIUC's ability to pay debt service required for the SunTrust debts totaling $3,250,000 (term loan of $2,750,000 and the existing line of credit loan of $500,000) as well as DIUC's ability to finance additional capital improvements that DIUC witness Guastella has stated since the beginning of this case are required but depend on additional financing. The POAs' proposals ignore the realities of DIUC's *actual* circumstances and they ask this Commission to enter what would be a clearly reversible order.



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Such an order would tee up another costly appeal for DIUC and ORS thereby wasting ratepayer funds, ORS resources, and the Supreme Court's valuable time.

Despite these obvious reasons why the POAs' positions cannot be adopted, for sake of explanation within this Order, a brief analysis of pertinent issues in the POAs' proposals follows.

**The POAs' Unsupported Position on CIAC**

With respect to the "CIAC adjustment" the POAs claim through their witness Mr. Loy that the real estate developer of Haig Point intended to contribute all of the utility assets to DIUC (formerly Haig Point Utility Company, Inc.). Mr. Loy supports this claim by referring to Schedule A-1 in the HPUC's 2005 application for a rate increase, Exhibit CEL-R1, which shows Utility Plant in Service of $4,339,598 that was not reflected in a trial balance work sheet for the years prior to the 2005 rate case. *See* Rehearing Transcript at 310 and Exhibit CEL-R2.

Mr. Loy next claims that HPUC did not pay for the Utility Plant, referencing Exhibit CEL-R3 that contains documents transferring the various HPUC utility assets from International Paper Realty Corporation ("IP") and subsequently from Haig Point, Inc. ("HP") to HPUC, and also documents transferring Melrose Utility Company ("MUC") utility assets from Southeast Holding Company, Inc. and also Hilton Head Plantation Utilities, Inc. to MUC. *See* Rehearing Transcript at 311. Finally, Mr. Loy refers in his testimony to an IP's 1999 SEC filing, suggesting that IP somehow "gained a significant economic benefit by offsetting taxable income with the write offs of the development investment and subsequent operating losses." Rehearing Transcript at 315. Presumably attempting to make his position more appealing, Mr. Loy also refers in his testimony to the NARUC System of Accounts as well as a treatise and a manual that essentially defines CIAC and states that CIAC is a deduction to rate base for rate setting purposes. *See* Rehearing Transcript at 312-313. These documents nor these excerpts are sufficient foundation for a reliable conclusion.



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Prior to Mr. Loy's testimony at the rehearing, DIUC's counsel objected:

> We're objecting under the rules of Evidence that his testimony does not show that he has a foundation for saying many of the things that he says, that it's hearsay relying on hearsay, and that it is speculative. And under the Rules, the Rules of Evidence apply, and, here, this witness purports to be — or he testifies to conclusions based on documents that he didn't prepare. There's no showing he knew what the makers of those documents intended nor that he was involved with the utility at the time he makes these sweeping conclusions. It's unfounded and speculative. He goes on to do that as to the 10-K that was filed by IP, to make conclusions without any foundation. And he has, basically, legal conclusions or questions that say, "Is there any evidence of this?" That's not a proper question. He should be asked based on his knowledge of certain things. So we object to the entry of this testimony because it is, for the most part, testimony without a factual foundation, that is hearsay relying on hearsay, and it is speculative.

Rehearing Transcript at 288-289. During the hearing Chairman Whitfield overruled DIUC's objection to the admissibility of Mr. Loy's and POA witness Lanier's testimony. *See* generally Rehearing Transcript at 286 – 306. Mr. Loy admitted he had no first-hand knowledge of the preparation of any of the records on which he based his testimony. His conclusions were entirely speculative. Upon reflection, the Commission concludes the testimony, although admitted, is not reliable for many of the reasons articulated by DIUC in the objection quoted above and that the POAs did not carry their burden of proving the conclusions asserted with probative, reliable evidence.

DIUC's witness Mr. Guastella explained the Utility's reasons for disagreeing with the POAs' speculative position that IP and the developer Haig Point, Inc. intended to contribute the utility plant in service to HPUC as CIAC. Mr. Guastella's rebuttal testimony in the primary case addressed this issue and he also commented on it during rehearing. Addressing the issue of imputation of CIAC in the primary case, Mr. Guastella's prefiled testimony included the following:

> Q. When you prepared the last a rate analysis on behalf of DIUC, did you find anything unusual in the relationship between Haig Point, Inc. and HPUC as reflected on the balance sheet as of December 31, 2007 before the acquisition by CK Materials?

> A. No. I found what I have always found for the hundreds of my developer-related utility clients. When a water or sewer utility is created as part of a real estate project, it has no customers and no revenues, because the utility system has not yet been constructed. The developer owner, individual or corporate, funds the construction of the utility system. At some point, sooner or later – it doesn't matter, the assets are transferred from the developer to the utility at their original cost and a liability is reflected on the utility's books in some form of open account, typically as Advances in Aid of Construction or some other named contributed capital account, which represents the developer's equity investment. In sum, there is absolutely no indication that there were customer contributions in aid of construction as defined in the NARUC USoA, and Mr. Loy's proposal to assume contributions is simply unsupported with any substantive analysis.

Hearing Transcript at 211-212.

In his rebuttal testimony in rehearing, Mr. Guastella testified that:

- In the 2004 rate case ORS established that the balance sheets accurately reflected the books and records.
- The approved application for the purchase of HPUC by CK Materials included the balance sheet and cost of utility plant, and the approval was agreed to in a settlement signed by Attorney John F. Beach on behalf of the Haig Point Club and Community Association, Inc.
- The 2011 rate application and related settlement did not include adjustments for additional CIAC.
- The approved 2012 financing with SunTrust Bank relied on the balance sheets.
- ORS's testimony and exhibits in this case do not agree with the Intervenors' position regarding the imputation of CIAC or adjustments to utility plant for non-used and useful assets.
- There is no evidence that the lot purchasers paid for anything but the value of the real estate, and other than minor tap in fees no connection fees to fund utility plant assets.

Rehearing Transcript at 102-103.

At rehearing, Mr. Guastella also referred to HPUC's 2008 federal income tax return that reflects a level of Utility Plant in Service that is consistent with the amounts reflected in DIUC's



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current and past rate applications. *See* Rehearing Exhibit 4. In response to a question from the POAs' counsel, Mr. Guastella succinctly explained the history of the utility's plant.

> BEACH:
> But was there any kind of benefit from a tax standpoint, or other benefit? I think Mr. White said they received nothing in exchange, but could either one of you address that?
>
> GUASTELLA:
> I can address that. Like any other developer, when a developer of real estate, when you go to sell real estate, it's got more value if it has utility facilities. So when they sell the real estate, they're selling at a higher value because they have utility facilities. Because they didn't have any, of course, as I mentioned, they had to construct utility facilities. Therefore, they are making an investment, and they created a separate utility corporation to provide that utility service. At some point, when you transfer the assets to the utility — the utility doesn't pay for those assets — it becomes the developer's investment in the utility, and that's recorded as equity investment. Now, in terms of taxes, when they file federal income taxes, those utility facilities are reflected on the utility's federal income taxes, and the advances in aid of — the contributions-in-aid-of-construction and equity investment is also reflected. The developer could not have written off the cost of the utility facilities and taken a tax benefit on its real estate operations, and also take depreciation on the assets through the utility corporation. So they – even — and the tax returns reflect exactly what the books are reflecting. The assets are the utility's. IRS is allowing them to depreciate the utilities, and the source of capital to fund the utilities is the equity investment by the developer.

Rehearing Transcript at 239-240.

In Mr. Guastella's prefiled rebuttal testimony in the primary case, he also explained that under the tax code, one affiliate cannot expense plant for tax purposes and then transfer it to an affiliate who depreciates the cost that was already expensed.

> Q: Do you agree with Mr. Loy's analysis to support his position that the plant should be treated as contributed?
>
> A: No. Mr. Loy's analysis is a fabrication. Mr. Loy begins his analysis by claiming that Haig Point, Inc. treated the utility plant as inventory and expensed these costs as development costs. He provides no support for that statement, and it's rather far-fetched. Under the tax code, one affiliate cannot expense plant for tax purposes and then transfer it to an affiliate who depreciates the cost that was already expensed.



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Rehearing Transcript at 210-211.

The Commission's past decision's regarding DIUC's rates have never accepted settlements that reflect the imputation of more CIAC in calculating rate base than reflected on DIUC's books. ORS did, in fact, verify in the 2004 rate case that the balance sheets reflected HPUC's books and records. The balance sheet and cost of utility plant contained in the approved application for the acquisition of HPUC by CK Materials from Haig Point, Inc. also confirm that the level of Utility Plant in Service did not include more CIAC than booked, and neither did the 2012 and current rate cases. Mr. Guastella is correct that utilities newly created by related real estate developers are initially paper corporations with no revenues and no ability to finance the cost of utility facilities, and the real estate developers must initially finance the utility facilities. It is also indisputable that the HPUC was not a third party entity that would or could pay for the utility facilities after they would be transferred to it by the parent developer. Instead, the transfer of assets was a balance sheet transaction in which the cost of the utility facilities was recorded on the asset side of the balance sheet and the stockholder's equity investment on the liabilities side of the balance sheet. The transfer of title of these assets to the utility as paid-in capital is equally, if not more, probable than Mr. Loy's speculative assertion the transfer was a CIAC. The POAs failed to prove by the preponderance of the evidence the intent of Haig Point, Inc. to transfer of the assets to the utility as a CIAC.

The POAs do correctly argue that DIUC's rate base for rate setting purposes was not established in the Commission's approval of the SunTrust financing approval or the acquisition by CK Materials or the related settlement between DIUC and the HPCCA for that acquisition. Intervenors also correctly point out that the previous rate cases were settled and the parties are not bound by the rate base determinations in those cases. DIUC does not disagree. It is also true,



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however, that the dramatic imputation of CIAC proposed by the Intervenors has never been accepted by ORS or by this Commission. Considering that POAs' proposed imputation of CIAC in this rehearing results in a rate base of $2,304,944, it is also obvious that if a similar CIAC adjustment had been accepted in the 2012 rate case instead of the $5,000,000 rate base settlement, the $3,250,000 SunTrust financing in 2013 would not have been possible. Moreover, DIUC would not have been able to make the capital improvements, as described in the May 2015 Capital Improvement Report to the Commission, which were necessary to provide adequate service to its customers. *See* Hearing Transcript, Hearing Exhibit 7.

With respect to the 1987 rate case cited by Mr. Loy, the schedules included in Exhibit CEL-R4 are estimates to establish initial rates when the development was just beginning. There are no projections of balance sheets or a capital structure and no indication of when the physical utility facilities would be transferred to HPUC. Further, the POA introduced exhibits showing the title to these assets was not transferred by Haig Point, Inc. to the utility until 2001. It would have been highly improper for the utility to claim a return on these assets in the 1987 rate case because it did not own them. Again, it is clearly speculative to assume that the intent of developers, first IP and then Haig Point, Inc., was to contribute the utility facilities to HPUC. These documents do not indicate the alleged indication as to how the cost of the utility system would be "underwritten" by the lot owners. Moreover, Intervenors assumption that IP's 1999 SEC filing reflects a certain conclusion that IP gained a significant benefit by the write off of the cost of the utility assets is contradicted by HPUC's 2008 income tax returns that reflect depreciation of the cost of the utility assets. Again, as Mr. Guastella explained, the tax code does not permit affiliates to take deductions of the same assets. *See infra*, and Rehearing Transcript at 210-211.



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**The POAs' Unsupported Position on Utilization Factor**

As in the primary case, Intervenor witness Loy disagrees with DIUC's calculation of accumulated depreciation and depreciation expense because they are based on the application of a utilization factor, claiming such a method is not consistent with the NARUC system of accounts and it is an indication that the utility system is not fully utilized or not "used and useful."

DIUC's witnesses Guastella and White have explained that the utilization factor is not applied to utility plant in terms of it being "used and useful" but, instead, to depreciation rates that in effect apply longer average service lives because the loss in service value is reduced in proportion to the wear and tear on the system in proportion to the connected customers and total customers. Although availability customers require the entire system to make service available at any time they chose to construct a home, their wear and tear is less and the depreciation is less. Accordingly, the utility plant in service is 100% used and useful because it provides service to connected customers and availability service to availability customers.

The distinction ignored by the POAs in misapplying UF as explained in the following exchange during the rehearing.

> BEACH:
> So my question is this: If you take these exact same components – these components right here — and you apply these exact same utilization factors, right here, to determine also the percentage of the plant that should be calculated for the purposes of rate base, wouldn't that be using precisely this same concept but in a way that would be consistent across the board?
>
> GUASTELLA:
> No. You would be using an entirely different concept that's inapplicable to the establishment of depreciation rates. The percentages are applied to the depreciation rates; they're not applied to the plant. If you were going to apply that theory to the plant, you're than assuming incorrectly that the plant is not used and useful. Absolutely incorrect. The methodology for establishing used-and useful is not this methodology. This methodology establishes the appropriate depreciation rates and depreciation expenses. There's a used-and-useful analysis that would establish whether or not the plant is used and useful. It's a completely different analysis. If

that analysis is made, the finding is that the plant is 100 percent used and useful…. Rehearing Transcript at 275-276.

The Commission finds that the system utilization factor used for calculating depreciation rates cannot be interchanged with an analysis of plant in service, as POAs suggest. Accordingly, the Commission will not adopt the POAs' adjustments based upon UF. Because the POAs' allowance for property taxes is predicated on their proposed adjustments for CIAC and the utilization factor, the POAs' proposed property tax recommendations are also rejected.

The POAs' proposed imputation of CIAC is based on assumed intentions of the developers and HPUC in reliance on speculation, unsupported assumptions, and other unreliable evidence. The POAs fail to acknowledge or address the last 13 years of ORS findings regarding utility plant in service, the 2008 acquisition, the 2013 SunTrust financing, and the 2008 income tax return. Accordingly, Intervenors' proposed imputation of CIAC is rejected. The Commission also finds it cannot accept the POAs' position that the Commission should totally recalculate DIUC's accumulated depreciation by applying a misguided view of how utilization factor ("UF") is relevant to DIUC's system. These findings are based on the testimony of witnesses Guastella, White, Loy, Lanier, Gearheart, Sullivan, and Hipp as well as a review of the docketed documents within the Commission files, as cited.

**SUMMARY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. DIUC is a water and sewer utility providing water and sewer service in its assigned service area on Daufuskie Island, Beaufort County, South Carolina. The Commission is vested with authority to regulate rates of every public utility in this state and to ascertain and fix just and reasonable rates for service. S.C. Ann. §58-5-210, *et. seq*. DIUC's operations in South Carolina are subject to the jurisdiction of the Commission.



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2. DIUC requested in its Application to increase revenues for combined operations by $1,182,301, consisting of a water revenue increase of $590,454, and a sewer revenue increase of $591,847, based on the rate of return on rate base methodology utilizing an ROE of 10.5% and a 2014 historical test.

3. Under DIUC's proposed rates, the additional total operating revenues would be $1,169,138.

4. The revenue increase requested by DIUC in its Application is a 108.9% increase over the rates then in effect.

5. Based on the Application of DIUC and the evidence presented to the Commission by the Parties, the Commission will use the rate base/rate of return methodology in determining the lawfulness of the Company's rates and in fixing just and reasonable rates.

6. The return on rate base methodology requires three components: capital structure, cost of debt, and cost of equity (or return on equity).

7. The appropriate historical test year period for this proceeding, selected by the Company, is January 1, 2014, through December 31, 2014, adjusted for known and measurable changes.

8. Certain revenue, operating expense, and rate base adjustments proposed by ORS were accepted by the Company as listed in Mr. Guastella's rehearing testimony; these adjustments will be used by the Commission in calculating DIUC's revenue requirement.

9. The original cost of DIUC's utility plant that is used and useful in providing service to its customers is $3,949,956 for water and $4,189,304 for sewer.

10. The accumulated depreciation for plant in service is $429,396 for water and $348,458 for sewer and the annual depreciation expense related to the utility plant in service is



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$42,120 for water and $53,420 for sewer. These include depreciation on contributions.

11. The appropriate level of customer contributions in aid of construction net of amortization is $402,594 for water and $182,359 for sewer.

12. There is no reasonable basis upon which to make a negative acquisition adjustment.

13. DIUC's rate base is $6,970,760.

14. A fair and reasonable rate of return for the Company is 7.46%, as presented by ORS. The resulting operating margin is 15.6%, which is also reasonable.

15. The Company is entitled to total rate case expenses of $468,700, which includes legal fees, bond costs, and $156,656 for GA's rate case billings. The Commission leaves outstanding DIUC's other requested rate case expenses for GA's services. The Commission is not ruling on or offering any decision on those costs or their documentation at this time and the Utility may present them again in their next rate case.

16. Allowed rate case expenses shall be amortized over a period of three years ($468,700 divided by 3 years = $156,233 per year).

17. The actual and known and measurable amount for Utility Property Taxes necessary to cover the eight-year installment payments under DIUC's Settlement Agreement Addendum with Beaufort County Treasurer and its ongoing annual amounts are $65,855 and $192,372, respectively.

18. The management of DIUC's operation under the management agreement with Guastella Associates, LLC has been more than adequate, particularly given the challenges faced by the Company; the requested management fees in the amount of $171,365 are reasonable and may be recovered.



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19. The appropriate operating expenses for DIUC after accounting and pro forma adjustments and adjustments for known and measurable changes total $1,722,469.

20. Applying the fair and reasonable rate of return established herein, a 7.46% rate of return, the total operating revenue requirement for DIUC is $2,242,719.

21. In order for DIUC to have the opportunity to earn its total operating revenue requirement of $2,242,719, DIUC must be allowed additional revenues totaling $1,169,138.

22. The Company's proposed "single-tariff" rate structure for its "Haig Point" and "Melrose" customers was unopposed, is fair and reasonable, and will be used to reflect rates that generate the allowed revenues as determined by the Commission.

23. This Order provides for a capital structure of 46% long-term debt and 54% equity; a cost of debt rate of 5.29%; and an ROE of 9.31%.

24. The overall rate of return of 7.46% produces additional net operating income of $520,250, or $240,513 for water and $279,737 for sewer.

25. This Order's permitted revenues and expenses establish a fair and reasonable operating margin of 15.6%, and a return on rate base of 7.46%.

## ORDERING PROVISIONS

As set forth above, this Commission has, in compliance with S.C. Code §58-5-240, determined a fair rate of return for the Company and has documented fully the reasons for its determination in its Findings of Fact which are based exclusively on reliable, probative, and substantial evidence on the whole record.

IS THEREFORE ORDERED THAT:

1. The proposed schedule of rates and charges as filed in the Company's Application is found to be reasonable, as modified herein, and is granted.



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2. The schedule of rates and charges attached hereto as Appendix A is hereby approved for service rendered on or after the date of this Order. The schedule is deemed filed with the Commission pursuant to S.C. Code Ann. Section 58-5-240.

3. The Company shall maintain its books and records in accordance with the NARUC Uniform System of Accounts as adopted by this Commission.

4. The Company shall notify each customer in each class of the customers' increase in rates with the first bill that includes the new increase in rates made subject to this Order.

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

BY ORDER OF THE COMMISSION:

_____

Swain E. Whitfield, Chairman

ATTEST:

_____

Comer H. “Randy” Randall, Vice Chairman



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Docket No. 2014-346-WS

**Daufuskie Island Utility Company, Inc.**

**Statement of Rates and Charges**

| | | | Haig Pt. Present Rates | Melrose Present Rates | DIUC Single Tariff Proposed Rates |
|---|---|---|---|---|---|
| I. | **Residential Rates** | | | | |
| | A. Water: | | | | |
| | 1) Base Quarterly Charge | | $62.09 | $80.72 | $154.16 |
| | 2) Consumption Charge (per 1,000 gallons) | 0 to 22,500 gallons per quarter | $2.76 | $0.00 | $4.42 |
| | | Over 22,500 gallons | $2.76 | $2.44 | $4.42 |
| | B. Sewer: | | | | |
| | 1) Base Quarterly Charge | | $110.38 | $80.72 | $223.87 |
| | 2) Volumetric Charge (per 1,000 gallons) | 0 to 22,500 gallons per quarter | $1.32 | $0.00 | $2.38 |
| | | Over 22,500 gallons | $1.32 | $1.95 | $2.38 |
| | C. Irrigation: | | | | |
| | 1) Consumption Charge (per 1,000 gallons) | 0 to 18,000 gallons per quarter | $2.76 | $1.66 | $4.86 |
| | | 18,001 to 60,000 gallons | $3.09 | $1.66 | $5.74 |
| | | Over 60,000 gallons | $3.50 | $1.66 | $6.62 |
| II. | **Commercial Rates** | | | | |
| | A. Water: | | | | |
| | 1) Base Quarterly Charge | | $86.93 | $136.60 | $215.82 |
| | 2) Consumption Charge (per 1,000 gallons) | 0 to 22,500 gallons per quarter | $2.76 | $0.00 | $4.42 |
| | | Over 22,500 gallons | $2.76 | $1.95 | $4.42 |
| | B. Sewer: | | | | |
| | 1) Base Quarterly Charge | | $178.21 | $136.60 | $313.42 |
| | 2) Volumetric Charge (per 1,000 gallons) | 0 to 22,500 gallons per quarter | $1.32 | $0.00 | $2.38 |
| | | Over 22,500 gallons | $1.32 | $1.95 | $2.38 |
| | C. Irrigation: | | | | |
| | 1) Consumption Charge (per 1,000 gallons) | 0 to 18,000 gallons per quarter | $2.76 | $1.66 | $4.86 |
| | | 18,001 to 60,000 gallons | $3.09 | $1.66 | $5.74 |
| | | Over 60,000 gallons | $3.50 | $1.66 | $6.62 |
| III. | **Availability Charge** | | | | |
| | A. Water: | | | | |
| | 1) Base Quarterly Charge | | $31.04 | $76.36 | $110.99 |
| | B. Sewer: | | | | |
| | 1) Base Quarterly Charge | | $55.19 | $85.08 | $144.40 |

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Docket No. 2014-346-WS

**Daufuskie Island Utility Company, Inc.**
**Water and Wastewater Systems**
**Combined Operating Statement**

| | **Company** | **PSC Order (a)** | |
|---|---|---|---|
| | Pro Forma Proposed Rates | Adjustments | Pro Forma Proposed Rates |
| Operating Revenue: | | | |
| Residential | $710,786 | ($18,579) | $692,207 |
| Commercial | 287,589 | 671 | 288,260 |
| Irrigation | 213,238 | (11,711) | 201,527 |
| Availability Billing | 992,880 | 3,652 | 996,532 |
| Misc. Other Revenue | 63,229 | 964 | 64,193 |
| Interdepartmental Sales | 0 | 0 | 0 |
| Billing Adjustments | 0 | 0 | 0 |
| Total Revenues | 2,267,722 | (25,003) | 2,242,719 |
| | | | |
| Operating Expense: | | | |
| Wages | 164,752 | 11,838 | 176,590 |
| Benefits | 10,686 | (4,486) | 6,200 |
| Director's Fees | 16,500 | 0 | 16,500 |
| Sludge Disposal | 0 | 0 | 0 |
| Power | 166,718 | (36,537) | 130,181 |
| Chemicals | 9,510 | (490) | 9,020 |
| Supplies & Maintenance | 28,543 | (1,427) | 27,116 |
| Outside Services-Mgmt | 171,364 | 1 | 171,365 |
| Outside Services-Engineering | 8,013 | 2,124 | 10,137 |
| Outside Services-Accounting | 2,762 | (1) | 2,761 |
| Outside Services-Legal | 23,178 | 0 | 23,178 |
| Outside Services-Testing | 92,289 | (1) | 92,288 |
| Outside Services-Other | 38,622 | (1) | 38,621 |
| Other Operating Expenses | 0 | 0 | 0 |
| Transportation | 2,756 | (306) | 2,450 |
| Bad Debt | 30,852 | 189,321 | 220,173 |
| Insurance | 48,322 | (9,411) | 38,911 |
| Regulatory Commission Expense | 15,636 | 0 | 15,636 |
| Other A&G Expenses | 36,436 | (0) | 36,436 |
| Accepted ORS Adjustment | 0 | (46,033) | (46,033) |
| Total O&M Expense | 866,939 | 104,592 | 971,531 |
| | | | |
| Depreciation | 95,266 | $273 | 95,539 |
| Amortization | 206,076 | $16,013 | 222,089 |
| Revenue Taxes | 14,320 | $4,889 | 19,209 |
| Property Taxes | 192,301 | $1 | 192,302 |
| Payroll Taxes | 13,732 | ($520) | 13,212 |
| State and Federal Income Taxes | 260,495 | ($51,907) | 208,588 |
| Total Operating Expenses | 1,649,129 | 73,340 | 1,722,469 |
| | | | |
| Net Operating Income | $618,593 | ($98,343) | $520,250 |
| | | | |
| Rate Base | $7,085,475 | ($114,715) | $6,970,760 |
| | | | |
| Rate of Return | 8.73% | | 7.46% |
| | | | |
| Revenue Increase | 108.9% | | 108.9% |
| | | | |
| Interest Expense | $180,680 | ($11,291) | $169,389 |
| Operating Margin | 19.3% | | 15.6% |

Note (a):
1) Restored Water Tank, and other "Non-Documented" plant costs.
2) Restored correct level of property tax expense and amortization of deferred taxes
3) Restore bad debt expense to test year levels and adjusted for revenue increase.
4) Restore Mgmt Fees to "As Filed" Expense
5) Limit Rate Case Costs allowance so Revenue increase does not exceed 108.9%.

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